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Regulations and Non-Regulatory Revisions to State Implementation Plan: New York

Atlantic Environmental Associates, Inc.
Waltham, MA

Prepared for

Environmental Protection Agency
Research Triangle Park, NC

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This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA-approved State and/or local air pollution control regulations cited by reference in the Federal Register; regulations promulgated as of August 1, 1981 have been included in this document.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979. State and/or local air quality regulations which have not been Federally approved as of August 1, 1981, are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State, or local agencies to enforce such regulations. A summary sheet of the regulatory revisions is provided to give a quick historical assessment of the changes.

The second part of the document contains the text of non-regulatory SIP revisions approved by EPA up to August 1, 1981, excluding notices or certifications of public hearings and technical support data. A complete tabulation of these revisions is also provided.

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By

Atlantic Environmental Associates, Inc.
59 Vernon Street
Waltham, MA 02154

Contract No. 68-02-3565

EPA Project Officer: Willis P. Beal

Prepared for

U.S ENVIRONMENTAL PROTECTION AGENCY
Control Programs Development Division
Office of Air Quality Planning and Standards
Research Triangle Park, North Carolina 27711

July 1981

This report has been reviewed by the Control Programs Development Division of the Office of Air Quality Planning and Standards, EPA, and approved for publication. Mention of trade names or commercial products is not intended to constitute endorsement or recommendation for use. Copies of the entire document are available for inspection and copying at EPA Headquarters (401 M Street SW, Washington, DC 20460), EPA's Office of Air Quality Planning and Standards (Room 826, 411 West Chapel Hill Street, Durham, NC 27701), and the appropriate EPA Regional Offices. Documents containing only the regulatory portions of each State Implementation Plan may be ordered for a nominal fee from the National Technical Information Services, U.S. Department of Commerce, 5285 Port Royal Road, Springfield, Virginia 22161.

PREFACE

This document has been produced in compliance with Section 110(h) of the Clean Air Act, as amended in 1977, which mandates periodic publication of State Implementation Plan (SIP) requirements. The first section of the document comprises the Federally approved SIP regulations. It consists of the EPA approved State and/or local air pollution control regulations cited by reference in the Federal Register; all regulations Federally promulgated as of August 1, 1981 have been included.

The present compilation constitutes an update of a previous documentation of regulations as of July 1, 1979.* State and/or local air quality regulations which have not been Federally approved as of August 1, 1981 are not included. However, any omissions of regulations from this document in no way affects the ability of the respective Federal, State or local agencies to enforce such regulations.

This document is not intended to provide a tool for determining the enforceability of any given regulation. Rather, it is intended to provide a comprehensive compilation of those regulations which are incorporated by reference into Title 40, Part 52, of the Code of Federal Regulations (CFR). The exclusion of a Federally approved regulation from this document does not diminish the enforceability of the regulation. Similarly, the inclusion of a given regulation in this document does not, in itself, render the regulation enforceable by either the State or EPA.

The regulations have been organized in this document according to the official State/local agency format. However, since State air quality regulations vary widely in their organization, content, and language, a standardized subject index has been added. The index listings consist of both pollutant and activity oriented categories to facilitate usage. For example, regulations which apply to copper smelters may be found under sulfur compounds (50.2), particulate matter process weight (50.1.1), or copper smelters (51.15). Federal regulations pertaining to a given State are not included herein but can be found under Title 40 Code of Federal Regulations, Part 52.

Additionally, a summary sheet of the regulatory revisions is included to provide a quick historical assessment of the changes. These summary sheets contain the date of submittal to EPA of each revision and the Federal Register publication date on which the revision was approved by EPA. A brief description of the regulation which was submitted is also included.

In accordance with the Act, the second part of the document contains non-regulatory SIP revisions approved by EPA up to August 1, 1981. All approved non-regulatory revisions listed under Identification of Plan in the CFR are included except notices or certifications of public hearings, and technical support data. Non-regulatory submittals which have only received EPA approval on selected elements are included in their entirety with an accompanying indication of the status of Federal actions on the non-approved elements. The non-regulatory revisions have been organized in this document according to the date of publication of EPA approval in the Federal Register. For historical completeness, a complete tabulation of these revisions is provided at the beginning of this second section.

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* Regulations and Non-Regulatory Revisions to State Implementation Plan: New York, EPA-450/2-80-039, prepared under Contract 68-02-3388, July 31, 1980.

SUMMARY OF
EPA-APPROVED REGULATORY REVISIONS TO STATE OF NEW YORK SIP
BETWEEN JULY 1, 1979 AND JULY 31, 1981

Publication of Approval	Submittal Date	Page	Document Description
02/05/80[A] 05/21/80[B] 11/10/80[C]	08/10/79	45FR7811 45FR33992 45FR74477	Comprehensive set of adopted regulations. Action taken only on certain regulations.
07/01/80[C]	05/01/80	45FR44275	Revisions to Parts 229 and 231 of 6 NYCRR.

A Applicable to all areas of the State except the New York-New Jersey-Connecticut and Niagara Frontier Air Quality Control Regions.

B Applicable to all areas of the State except the Niagara Frontier Air Quality Control Region.

C Applicable to all areas of the State except as they pertain to the attainment of particulate matter standards in the Niagara Frontier Air Quality Control Region.

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PART 200

GENERAL PROVISIONS

(Statutory authority: Environmental Conservation Law,
§§ 3-0301, 19-0301, 19-0303)
Effective August 23, 1979

Section 200.1 Definitions. (a) Air cleaning installation, air cleaning device control equipment. Any method, process or equipment which removes, reduces or renders less noxious air contaminants discharged into the atmosphere.

(b) Air contaminant. A dust, fume, gas, mist, odor, smoke, vapor, pollen or any combination thereof.

(c) Air contamination. The presence in the outdoor atmosphere of one or more air contaminants which contribute or which are likely to contribute to a condition of air pollution.

(d) Air contamination source or emission source. Any apparatus, contrivance or machine capable of causing emission of any air contaminant to the outdoor atmosphere, including any appurtenant exhaust system, air cleaning device or emission point, but excepting an indirect source of air contamination as defined in Part 203. Where more than one apparatus, contrivance or machine is connected to a single emission point, their combination shall be considered a single air contamination source.

(e) Air pollution. The presence in the outdoor atmosphere of one or more contaminants in quantities, of characteristics and of a duration which are or may be injurious to human, plant or animal life or to property or which unreasonably interfere with the comfortable enjoyment of life and property.

(f) Annual. Refers to a period of time based upon a calendar year commencing January 1 and terminating midnight December 31.

(g) Annual potential emissions. The annual emission of an air contaminant which is calculated based upon uncontrolled emissions but limited by enforceable permit stipulations regarding operating time and feed rate. If permit stipulations are not enforceable, the emission is calculated based upon uncontrolled hourly emission times 8760 hours per year.

(h) Attainment area. Any area of the State meeting all National Ambient Air Quality Standards (NAAQS) for a specific air contaminant as designated pursuant to Section 107(d) of the Federal Clean Air Act.*

*A list of such areas may be obtained from any office of the Department of Environmental Conservation.

(i) Best available control technology (BACT). An emission limitation or equipment standard based on the maximum degree of reduction of each contaminant emitted from stationary air contamination source which the Department determines is achievable for such source on a case-by-case basis considering:

1. Process, fuels and raw material available and to be used.
2. Engineering aspects of the application of various types of control technology which has been adequately demonstrated.
3. Process and fuel changes.
4. Respective costs of the application of all such control technologies, process changes, alternative fuels, etc.
5. Applicable state and federal emission standards.

In no event shall application of BACT result in emissions of any contaminant which will exceed the emissions allowed by any applicable standard established.

(j) By-product coke oven battery. A process for manufacturing coke which includes ovens, charging systems (including larry cars), auxiliary gas collection systems, heating systems, pushing systems, quenching systems, desulfurization systems, sulfur recovery units, waste heat stacks and air cleaning devices or control equipment.

(k) Combustion installation. An installation, consisting of one or more furnace, device, engine or turbine in which fossil fuel and/or wood is burned with air or oxygen and the air contaminant emissions include only those products resulting from:

1. combustion of the fuel,
2. additives or impurities in the fuel, and
3. material introduced for the purpose of altering air contaminant emissions.

A combustion installation may consist of (i) a single furnace exclusively connected to an air cleaning device and/or stack, or (ii) two or more furnaces connected to a common air cleaning device and/or stack.

(l) Commissioner. Commissioner of Environmental Conservation of the State of New York.

(m) Confined process. Any process whose emissions are contained or captured in a hood and then conveyed through a duct, vent, or stack prior to discharge to the outer atmosphere.

(n) Day. A 24-hour period beginning at midnight.

(o) Diesel engine. An internal combustion engine in which air is compressed to a temperature capable of igniting fuel injected into the cylinders where combustion occurs.

(p) Distillate oil. A fuel oil consisting of distilled fractions and having a kinematic viscosity of 5.8 centistokes or less at 100 degrees Fahrenheit. This includes ASTM grade numbers 1 and 2 fuel oil, ASTM grade numbers 1-D and 2-D diesel fuel oil and proposed ASTM grade numbers 1-GT and 2-GT turbine fuel oil.

(q) Emission. The release of any air contaminant into the outdoor atmosphere from any emission source.

(r) Emission point. Any conduit, chimney, duct, vent, flue, stack or opening of any kind through which air contaminants are emitted to the outdoor atmosphere.

(s) Emission rate potential. The maximum rate at which a specified air contaminant from an emission source would be emitted to the outdoor atmosphere during normal operations, in the absence of any air cleaning installation, air cleaning device or control equipment. The emission rate potential of a specified air contaminant from an emission source is calculated by dividing the weight of such contaminant (expressed in pounds) that would be emitted to the outdoor atmosphere during maximum emission conditions in the absence of any air cleaning installation or air cleaning device or control equipment, by the duration (expressed in hours) of such emissions. When an air contaminant is emitted for a period equal to or less than one hour, the emission rate potential is the weight of the contaminant emitted in the absence of any air cleaning installation or air cleaning device or control equipment, divided by one hour, except that for any toxic air contaminant specified by the Commissioner, the duration of emissions used in calculating the emission rate potential may be less than one hour.

(t) Emission test. Any method of collecting stack samples or samples of emissions from an air contamination source and analyzing such samples for air contaminants.

(u) Environmental rating. An assigned rating indicated by the letter A, B, C or D, which considers the potential environmental effects of an air contamination source on its surroundings.

(v) Equivalent opacity. The opacity measured by methods acceptable to the commissioner when a specific emission source is emitting air contaminants at - or less than - the mass emission standard, as corroborated by stack tests acceptable to the commissioner.

(w) Exhaust and/or ventilation system. Any system which removes air contaminants from a process and transports them from their point of generation to the outdoor atmosphere.

(x) Facility. Air contamination source or sources located at one or more adjacent properties owned or operated by a single party.

(y) Fossil fuel burning equipment. Any furnace, steam, hot-air or hot-water generating equipment or any other device, exclusive of process equipment in which the fuel burned is coal, oil, gas or other fossil fuels.

(z) Fuel. Solid, liquid or gaseous combustible material.

(aa) Garbage. The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

(bb) Heat input. The heat released (exothermic heat of chemical reaction) due to the combustion of fuel. It includes only the weight rate (e.g., lbs/hr) of the fuel fired multiplied by the caloric value of the fuel.

(cc) Incinerator. Any structure or furnace in which combustion takes place and type 0, 1, 2, 3 or 4 refuse is used as a fuel, alone or in conjunction with fossil fuel.

(dd) Iron and/or steel processes. Processes commonly associated with or necessary to production of iron and steel excluding ferroalloys but including the following:

1., Materials handling systems including but not limited to systems for handling iron ore, ore pallets, coal, limestone, fluxes, scrap steel sinter, coke, steel alloying ingredients, slag and dust.

2. Blast furnaces for making iron.

3. Sintering processes excluding iron-ore beneficiating processes.

4. Basic oxygen furnaces, open hearths and electric furnaces.

5. Iron and/or steel furnaces except furnaces in jobbing foundries.

6. Molten material transfer and processing operations including but not limited to teeming, tapping, reladling and casting.

7. Continuous casting operations.

8. Scarfing and other surface defect removal operations except those in jobbing foundries.

9. Scrap preparation including scrap melting and burning operations.

10. Molten metal desulfurization operations.

11. Raw material drying systems.

12. Process furnaces including soaking pits, annealing furnaces, reheating furnaces and other process furnaces using direct heat transfer.

(ee) Lowest achievable emission rate (LAER). The most stringent emission limitation achieved in practice, or which can reasonably be expected to occur in practice for a category of emission sources taking into consideration each air contaminant which must be controlled. In no event shall the application of this term permit a proposed new source or modification to emit any air contaminant in excess of the amount permitted under any applicable emission standard established under 6 NYCRR or 40 CFR.

(ff) L.P. gas. A petroleum hydrocarbon, such as propane, butane or isobutane, which is normally a gas but which can be compressed and condensed to a liquid.

(gg) Modification. Any physical change, or change in the method of operation of an incinerator, stationary combustion installation or process which (a) increases the hourly emission rate, emission concentration or emission opacity of any air contaminant or (b) involves the installation or alteration of any air cleaning installation, air cleaning device or control equipment or (c) involves conversion of fuel used in any emission source to a fuel with a higher ash content than the fuel used prior to the change, or (d) involves the alteration of any furnace or other physical changes to allow burning of refuse or refuse derived fuel with fossil fuel. Routine maintenance, repair and replacement of original equipment or parts thereof are not considered physical changes. An increase or decrease in the hours of operation is not considered a change in the method of operation if the total emissions do not cause air pollution or contravention of any applicable ambient air quality standard, and the cumulative permissible emission resulting from any increase in the hours of operation is equal to or less than 50 tons per year or 1000 pounds per day or 100 pounds per hour.

(hh) Motor vehicle. A vehicle which can travel on land and which is propelled by means other than human or animal muscular power except such vehicles which run only on tracks or rails.

(ii) New York City Metropolitan Area. All of the City or New York, and Nassau, Suffolk, Westchester, and Rockland Counties.

(jj) Non-attainment area. Any area of the State not meeting a National Ambient Air Quality Standard (NAAQS) for a specific air contaminant as designated pursuant to Section 107(d) of the Federal Clean Air Act.*

(kk) On-site incinerator. Any incinerator except one used to burn refuse which is collected from more than 100 different premises and brought to the incinerator site by truck.

(ll) Opacity. The degree to which emissions other than water reduce the transmission of light and obscure the view of an object in the background.

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*A list of such areas may be obtained from any office of the Department of Environmental Conservation.

(mm) Open fire. Any outdoor fire or outdoor smoke - producing process from which the air contaminants are emitted directly into the outdoor atmosphere.

(nn) Operator. Any person who leases, operates, controls, or supervises a facility at which air contaminants are emitted.

(oo) Outdoor atmosphere. The atmosphere outside of and surrounding all buildings, structures, stacks or exterior ducts.

(pp) Owner. Any person who has legal or equitable title to an emission source, or of the control equipment at such source.

(qq) Particulates. Any air or gas-borne material, except water, which exists as a liquid or solid. The determination of the quantity of particulates present in a stack shall be determined in accordance with emission testing methods acceptable to the commissioner.

(rr) Permissible emission rate. The maximum rate at which air contaminants are allowed to be emitted to the outdoor atmosphere. This includes:

1. Any applicable emission limitation in this subchapter;

2. Any performance standard contained in Title 40 of the Code of Federal Regulations.

3. Any emission limitation specified by the Commissioner as a condition of a Permit to Construct and/or Certificate to Operate.

(ss) Person. Any individual, public or private corporation, political subdivision, government agency, department or bureau of the State, municipality, industry, co-partnership, association, firm, trust, estate or any other legal entity whatsoever.

(tt) Process. Any industrial, commercial, agricultural, or other activity, operation, manufacture or treatment (except incineration of type 0, 1, 2, 3 and 4 refuse, open burning and operation of combustion installations) in which chemical, biological and/or physical properties of the material or materials are changed and which emits air contaminants to the outdoor atmosphere.

(uu) Process weight. A total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in a process is considered part of the process weight, but liquid and/or gaseous fuel, uncombined water and combustion air are not.

(vv) Process weight per hour. The total process weight for any emission source divided by the number of hours during which air contaminants are emitted by such source to the outdoor atmosphere.

(ww) Pyroprocesses. This part of cement and light-weight aggregate manufacturing related to the preheating, calcining, sintering, burning and cooling of clinker. Such processes include a means of chemically changing the material processed and do not include physical changes such as pearlite or shale expansion.

(xx) Reasonably Available Control Technology (RACT). Lowest emission limit that a particular source is capable of meeting by application of control technology that is reasonably available considering technological and economic feasibility.

(yy) Refuse. All waste material, including but not limited to, garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

(zz) Refuse disposal area. Land used for depositing of refuse except that it shall not include land used for depositing of refuse from a single family, a member of which is the owner, occupant or leasee of said land, or any part of a farm on which animal or vegetable waste resulting from the operation of such farm are deposited. This definition includes, but is not limited to, those areas commonly referred to as landfills, sanitary landfills and dumps.

(aaa) Ringelmann chart. The chart published and described in the U.S. Bureau of Mines Information circular 7718, on which are illustrated graduated shades of gray for use in estimating the light obscuring density of smoke. The "Micro" Ringelmann chart, a photographically reduced reproduction approximately one-eighteenth the size of the Ringelmann chart, is acceptable to the commissioner as an equivalent standard.

(bbb) Rubbish. Solid or liquid waste materials including, but not limited to, paper and paper products; rags; trees or leaves, needles and branches therefrom; vines, lawn and garden debris; furniture; cans; crockery; plastics, cartons; chemicals; paint; greases; sludges; oils and other petroleum products; wood; sawdust; demolition materials; tires and automobiles and other vehicles and parts, for junk, salvage, or disposal. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals, or offal.

(ccc) Smoke. An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

(ddd) Stack sample. A sample of the emission from an air contamination source collected from within a stack.

(eee) Stack. Any conduit, chimney, duct, vent, flue or opening of any kind arranged to conduct air contaminants to the outdoor atmosphere.

(fff) Standard conditions. A temperature of 21 degrees C (70 degrees F) and an absolute pressure of 760 mm (30 inches) of mercury.

(ggg) Volatile Organic Compound (VOC). Any compound of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides or carbonates, and ammonium carbonate, that has a vapor pressure greater than 0.10 mm (0.0039 inches) of Hg. at a temperature of 20°C (68°F) and pressure of 760 mm (30 inches) of Hg.

200.2 Safeguarding information. Information pertaining to manufacture, production or secret processes submitted in connection with applications, reports, plans and specifications or testing and designated by the person submitting such information as secret or proprietary, shall be kept confidential except at a hearing or court proceeding authorized under law. The quantity and physical and chemical characteristics of actual and allowable air contaminant emissions shall be considered public information.

200.3 False statement. No person shall make a false statement in connection with applications, plans, specifications and/or reports submitted pursuant to this Subchapter.

200.4 Severability. If any provisions of this Subchapter are held invalid, such invalidity shall not affect other provisions which can be given effect without the invalid provisions.

200.5 Sealing. (a) The commissioner may seal an air contamination source to prevent its operation if compliance with this chapter is not met within the time provided by an order of the commissioner issued in the case of the violation. Sealing means labeling or tagging a source to notify any person that operation of the source is prohibited, and also includes physical means of preventing the operation of an air contamination source without resulting in destruction of any equipment associated with such source, and includes, but is not limited to, bolting, chaining or wiring shut control panels, apertures or conduits associated with such source.

(b) No person shall operate any air contamination source sealed by the commissioner in accordance with this section unless a modification has been made which enables such source to comply with all requirements applicable to such modification.

(c) Unless authorized by the commissioner, no person shall remove or alter any seal affixed to any air contamination source in accordance with this section.

200.6 Ambient air quality standards. Notwithstanding the provisions of this Subchapter, no person shall allow or permit any air contamination source to emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any applicable ambient air quality standard and/or cause air pollution. In such cases where contravention occurs or may occur, the commissioner shall specify the degree and/or method of emission control required.

200.7 Maintenance of equipment. Any person who owns or operates an air contamination source which is equipped with an emission control device shall operate such device and keep it in a satisfactory state of maintenance and repair in accordance with ordinary and necessary practices, standards and procedures, inclusive of manufacturer's specifications, required to operate such device effectively.

200.8 Conflict of interest. The commissioner or his designees who have the designated authority to approve either permits and certificates issued pursuant to 6 NYCRR 201 or the issuance of an Order, pursuant to section 19-0509 of the ECL shall disclose prior to any such approval of issuance any significant portion of income, directly or indirectly, received from persons who may be a recipient of such a permit, certificate or Order.

For the purposes of this section:

(a) a significant portion of income shall mean 10 percent or more of gross personal income for a calendar year or if the recipient is 60 years or over, a significant portion of income shall mean 50 percent of gross personal income for a calendar year if such income is received pursuant to an established fixed pension or retirement program.

(b) income shall include retirement benefits, consultant fees and dividends.

(c) income is not received directly or indirectly where it is derived from mutual fund payments or other diversified investments where the identity of the primary source of income is not known to the recipient.

PART 201 - PERMITS AND CERTIFICATES

Section 201.1 Applicability

This Part shall apply throughout the State of New York except in counties and cities whose local laws, ordinances or regulations are consistent with this Subchapter provided, that such counties and cities have and maintain an adequate staff to implement and to enforce the provisions of such local ordinances, laws or regulations in accordance with standards established by the commissioner; and provided that in December of the preceding year, the commissioner has promulgated a list of such counties and cities which he will exempt during the calendar year following.

Section 201.2 Prohibitions

a. Except as provided in Section 201.8, no person shall initiate construction or modification of an air contamination source or an air cleaning device, exhaust system or stack without having obtained a permit to construct or a provisional permit to construct from the commissioner.

b. Except as provided in Section 201.8 and except where otherwise permitted by the commissioner, no person who owns as air contamination source shall operate, use, or permit to be used, such air contamination source without having a valid certificate to operate or provisional certificate to operate, issued by the commissioner.

c. A person who owns an air contamination source shall be permitted to operate such source without a certificate to operate provided he has applied for a certificate to operate. Such person shall terminate operation of such source on receipt of written notification that his application has been disapproved.

201.3 Application for and issuance of permits and certificates*

a. Any person who plans to construct or modify an air contamination source or an air cleaning device or who owns an existing air contamination source for which a certificate to operate is required, shall file an application with the commissioner for a permit to construct and/or certificate to operate. When requested by the commissioner, applicants shall include with the filed application, plans and specifications for the air contamination source including location of stack sampling ports, test scaffolds and any other reasonable and pertinent information.

*Applications for permits to construct pertaining to air cleaning devices on exhaust and/or ventilation systems required under the Labor Law and/or Industrial Code rules are reviewed for the commissioner by the Industrial Commissioner.

b. The commissioner shall issue a permit to construct only after the applicant demonstrates to his satisfaction that

1. the operation of the source will not prevent the attainment or maintenance of any applicable ambient air quality standards and

2. the source will operate without causing a violation of applicable Rules and Regulations.

c. A certificate to operate shall be issued by the commissioner for a period not to exceed three years when it is demonstrated that the existing, new or modified air contamination source or air cleaning device can be operated in conformity with all applicable Parts of this Subchapter.

d. A person who owns an air contamination source or an air cleaning installation shall construct, modify, test install and continue to operate in accordance with all the conditions of the permit to construct and or the certificate to operate and all applicable Parts of this Subchapter. The commissioner may suspend a certificate or permit if there is a failure to comply with its conditions and/or all applicable Parts of this Subchapter.

201.4 Permit to construct

a. A permit to construct shall be valid for one year from the date of issuance unless extended or suspended by the commissioner.

b. Where the requirement of Section 201.2 and/or Section 201.3 would create an undue hardship or cause unreasonable delay, a person may proceed to construct a new or modified air contamination source, at his own risk, only after having received a provisional permit to construct from the commissioner. Within 90 days of issuance of the provisional permit to construct such person shall either discontinue construction or shall have applied for a permit to construct as required by Section 201.2 and/or Section 201.3. The provisional permit to construct shall be in effect until such time the commissioner issues a permit to construct or disapproves or cancels the application.

201.5 Certificate to operate

a. The commissioner may issue a provisional certificate to operate for a limited time period not to exceed one year, where he has reason to believe that an air contamination source is a temporary, trial, or experimental installation, or in the case where the commissioner has required the submission and acceptance of a stack test report or other information as a condition to the issuance of a certifiace to operate or permit to construct.

b. Any certificate to operate or equivalent issued prior to the effective date of this Part, shall expire 15 months after the effective date of this Part. Expired certificates to operate are invalid.

c. Any person who owns an air contamination source or air cleaning device shall operate and maintain such source or device in accordance with this Subchapter and existing laws. Failure of such person to so operate and maintain the effectiveness of such source and/or device shall be sufficient reason for the commissioner to revoke or deny a certificate to operate.

201.6 Disapproval of application

If the application for a permit to construct or certificate to operate is disapproved, the applicant shall be notified in writing of the reasons. The commissioner may cancel such application if the applicant fails to submit an amended application within 90 days of notification.

201.7 Transference

No person who owns an air contamination source shall transfer a permit to construct or a certificate to operate from one air contamination source to another or from one person to another.

201.8 Exemptions

A person who owns any of the following air contaminations sources shall be exempt from all provisions of the other sections of this Part but shall not be exempt from other Parts of this Subchapter.

a. Combustion installations where the manufactureres rated heat input is less than one million BTU per hour.

b. Stationary internal combustion engines under 400 horsepower.

c. Unit space heaters.

d. Fuel burning equipment using as fuel No. 2 oil, diesel oil, natural gas, L.P. gas, or a mixed gas distributed by a utility in accordance with the rules of the Public Service Commission of the State of New York.

e. Emergency equipment installed in hospitals or other public institutions or buildings for use when the usual sources of heat, power, and lighting are temporarily unobtainable.

f. Emergency relief vents, stacks and ventilating systems.

g. Vehicles for transportation of passengers and/or freight.

h. Vacuum cleaning systems used exclusively for commercial or residential housekeeping.

i. Ventilating systems used for heating or cooling buildings for the comfort of people living or working within the building.

j. Laboratory ventilating and exhaust systems which are not used for radioactive air contaminants.

k. Process, exhaust or ventilating systems in bakeries or establishments preparing food for on-site human consumption.

l. Exhaust or ventilating systems for soldering or welding.

m. Exhaust or ventilating systems for lead melting pots and in printing establishments.

n. Exhaust or ventilating systems for fuel, solvent or paint storage tanks, rooms or cabinets where the average emission rate is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

o. Exhaust or ventilating systems for photocopying, photographic or other related process equipment where no ammonia gas is generated.

p. Process, exhaust or ventilating systems in municipal sewage treatment plants but not including sewage sludge incineration.

q. Process, exhaust or ventilating systems in dry cleaning establishments servicing the retail trade only.

r. Exhaust or ventilating systems for food blanching or cooking in water.

s. Ventilating systems used in buildings to house animals.

t. Exhaust or ventilating systems for spray, dip, or roller coating using water based coat material where only water vapor is released.

u. Exhaust or ventilating systems for printing, spray, dip or roller coating where the average emission rate is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

v. Exhaust or ventilating systems for nonaqueous solvent degreasers where the solvent make-up is equivalent to a maximum of one gallon of solvent used in any hour and the total annual emission of solvent does not exceed 110 gallons.

w. Exhaust or ventilating systems for melting of gold, silver, platinum and other precious metals.

201.9 Recycling, salvage or disposal of collected air contaminants.

a. Where practical, any person, who owns, or operates an air contamination source, shall recycle or salvage air contaminants collected in an air cleaning device.

b. No person shall remove collected air contaminants from an air cleaning device or shall recycle, salvage or dispose of such air contaminants in a manner so as to reintroduce them to the outdoor atmosphere to cause air pollution.

Note: Part 201 is disapproved for the following regions: SO_2 standards for Hudson Valley Intrastate Region, primary SO_2 standards for Niagra Frontier Intrastate Region , secondary SO_2 standards for Genesee-Finger Lakes and Southern Tier West Intrastate Regions, and secondary SO_2 standards for Central New York, Southern Tier East Intrastate Regions and the New York portion of the Champlain Valley Intrastate Region.

PART 202 - STACK TESTING, SAMPLING AND ANALYTICAL DETERMINATIONS

202.1 Required stack tests

If the Commissioner has reason to believe that an air contamination source may not be in compliance with the provisions of this Subchapter, he may require the person who owns such air contamination source to submit an acceptable stack test report within a stated time demonstrating that the source is in compliance with this Subchapter. Such person shall bear the cost of stack testing and preparing the stack test report. Failure of such person to submit a report acceptable to the Commissioner within the time stated shall be sufficient reason for the commissioner to suspend or deny a certificate to operate.

202.2 Notification

A person who is required by the Commissioner to submit a stack test report shall notify the Commissioner, in writing, not less than 30 days prior to the test, of the time and date of the test. Such notification shall also include the acceptable procedures to be used to stack test including sampling and analytical procedures. Such person shall allow the Commissioner, or his representative, free access to observe stack testing being conducted by such person.

202.3 Acceptable procedures

Stack testing, sampling and analytical determination to ascertain compliance with this Subchapter shall be conducted in accordance with procedures acceptable to the Commissioner. The person who owns an air contamination source shall submit the stack test report to the Commissioner within 30 days after the completionof tests.

202.4 Separate stack tests by the Commissioner

a. If the Commissioner has reason to believe that an air contamination source may not be in compliance with the provisions of this Subchapter, he may conduct separate or additional stack tests on behalf of the state. Any person who owns an air contamination source, when requested by the Commissioner, shall provide sampling holes, scaffolding and other pertinent allied facilities required for collection of stack samples. Such person shall bear the cost of such facilities.

b. If a person who owns an air contamination source fails to provide sampling holes, scaffolding and other pertinent allied facilities required for collection of stack samples, the Commissioner may then provide such facilities, and such person shall bear the cost.

PART 203

INDIRECT SOURCES OF AIR CONTAMINATION

Section 203.1 Applicability.

(a) This Part shall apply throughout the State of New York; provided, however, that the Commissioner may by order filed with the Secretary of State exempt persons in a city or county in whole or in part from the provisions of this Part where he has determined that such city or county has enacted a local law, ordinance or regulation which will achieve the purposes of this Part or applicable portions thereof, and that such city or county has adequate staff to enforce and will enforce the provisions of such local law, ordinance or regulation; and provided, further, that the Commissioner may by order filed with the Secretary of State delegate the enforcement of this Part in whole or in part to a city or a county where he has determined that such city or county has adequate staff to enforce and will enforce the provisions of this Part or applicable portions thereof. (NOTE: The following cities and counties have been determined exempt or been delegated enforcement responsibilities: New York City.) He may revoke any such exemption or delegation where he determines that the stated conditions no longer exist. An order of exemption or delegation may contain such provisions concerning review of actions of any such city or county as the Commissioner may deem necessary.

(b) Except as provided in section 203.3, this Part shall not apply to the construction or modification of an indirect source of air contamination if such construction or modification commenced prior to the effective date of this Part. For the purpose of this subdivision, construction or modification will be deemed to have commenced if a person has entered into a contract for paving or installation of

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foundations or for the fabrication, erection or installation of the building components of an indirect source or associated parking area and has engaged in a continuous program of on-site construction or modification of such source or area; except that in the case of roads, highways and airports where acquisition of land is required, an appropriation of land through eminent domain proceedings as evidenced by the filing of a description and map in the office of the appropriate county official or the negotiated purchase of land as evidenced by a binding contract of purchase, shall constitute the commencement of construction or modification, if followed by a continuous program of on-site construction or modification. Interruptions resulting from force majeure shall be disregarded in determining whether a construction or modification program is continuous.

(c) With respect to any indirect source to which the owner or operator believes this Part does not apply, the owner or operator may request in writing an applicability ruling from the Commissioner.

Section 203.2 Definitions. As used in this Part, the following terms shall have the indicated meanings unless noted otherwise:

(a) "Indirect source of air contamination" or "indirect source" means a facility, building, structure or installation the construction or operation of which results or may result directly or indirectly in associated vehicular movements or aircraft operations which contribute to ambient concentrations of any pollutant for which there is an ambient air quality standard adopted pursuant to the Federal Clean Air Act, as amended, (42 U.S.C. 1857 et seq., hereinafter referred to as the "Act"), including but not limited to:

(1) highways and roads;
(2) parking facilities, including lots and garages;
(3) shopping centers and other retail and commercial facilities;
(4) recreational centers, amusement parks, sports stadiums and entertainment facilities;
(5) residential complexes;
(6) airports;
(7) office, institutional and industrial facilities;
(8) hotels and motels;
(9) theaters; and
(10) hospitals.

(b) "Associated parking area" means a parking facility or facilities operated in conjunction with an indirect source.

(c) "Aircraft operation" means an aircraft take-off or landing.

(d) "Commence construction" or "commence modification" means to initiate a program of on-site construction, including, but not limited to, site clearance, grading, dredging, land filling or entering into a contract for paving or installation of foundations or for the fabrication, erection or installation of building components, specifically designed for an indirect source or an associated parking area or in preparation for the fabrication, erection or installation of the building components of an indirect source.

(e) "Urban area" means any of the following counties:

(1) Albany, Rensselaer, Saratoga and Schenectady Counties (Albany-Schenectady-Troy area)

(2) Broome and Tioga Counties (Binghamton area)

(3) Erie and Niagara Counties (Buffalo area)

(4) Chemung County (Elmira area)

(5) Nassau, Rockland, Westchester and Suffolk Counties, and the counties of New York City (New York area)

(6) Dutchess County (Poughkeepsie area)

(7) Livingston, Monroe, Orleans and Wayne Counties (Rochester area)

(8) Madison, Onondaga and Oswego Counties (Syracuse area)

(9) Oneida and Herkimer Counties (Utica-Rome area)

Section 203.3 Prohibitions.

(a) No person shall commence construction or modification of an indirect source of air contamination or associated parking area without having a valid permit to construct issued by the Commissioner pursuant to this Part. The foregoing prohibitions shall apply only to:

(1) The construction or modification of any parking facility or any associated parking area in New York County.

(2) Any airport, the construction or modification of which results or may result in the following activity within ten years after completion of the construction or modification:

(i) In the case of a new airport, 50,000 or more aircraft operations per year by regularly scheduled air carriers, or use by 1,600,000 or more passengers per year.

(ii) In the case of a modified airport, an increase of 50,000 or more aircraft operations per year by regularly scheduled air carriers over the existing annual volume of aircraft operations, or an increase of 1,600,000 or more passengers per year.

(3) Within an urban area:

(i) The construction of any new parking facility, or other new indirect source with an associated parking area, which adds new parking capacity of 1,000 vehicles or more;

(ii) The modification of any parking facility or any associated parking area which, by itself or when added together with all parking capacity constructed subsequent to November 4, 1973 or the date the latest permit to construct has been issued for such facility or area, will produce parking capacity of 500 vehicles or more, unless such modification is permitted under the latest permit to construct;

(iii) The construction of any road or highway section on which the annual average of daily traffic volume within ten years of completion of construction exceeds or may exceed 20,000 vehicles;

(iv) The modification of any existing section of road or highway which increases or may increase the annual average of daily traffic volume within ten years of completion of modification by more than 10,000 vehicles.

(4) Outside an urban area.

(i) The construction of any new parking facility, or other new indirect source with

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an associated parking area, which adds new parking capacity of 2,000 vehicles or more;
(ii) The modification of any parking facility or of any associated parking area which, by itself or when added together with all parking capacity constructed subsequent to November 4, 1973 or the date the latest permit to construct has been issued for such facility or area, will produce parking capacity of 1,000 vehicles or more, unless such modification is permitted under the latest permit to construct.

(5) Whenever an indirect source or associated parking area is to be constructed or modified in planned incremental phases, the Commissioner may approve any or all such phases prior to the initiation of any such phase.

(b) No person shall operate an indirect source of air contamination, the construction or modification of which requires a permit under subdivision (a), without first having obtained a permit to construct and no person shall operate an indirect source which does not comply with the terms and conditions of the applicable permit to construct.

Section 203.4 Application for permit.

(a) An application for a permit to construct shall be filed with the Commissioner in such form and manner and contain such information as the Commissioner may require pursuant to guidelines which shall be made available to any person on request. Such information may include the submission by the applicant of appropriate atmospheric diffusion models, measured air quality data, reliable analyses and such other additional information, testing or documentation as the Commissioner may reasonably require to determine compliance with Section 203.9.

(b) After receipt of an application or supplement or correction thereto the Commissioner will advise the applicant of any deficiency in the information submitted in support of the application. In the event of such a deficiency, the application shall not be considered complete until all required information has been supplied.

(c) An applicant may be required to file with the application an undertaking in an amount fixed by the Commissioner to guarantee payment of the costs of any public hearing.

Section 203.5 Preliminary review of applications and public comment.

(a) After receipt of a completed application, the Commissioner will make a preliminary analysis of the application and a preliminary determination whether he intends to approve, approve with conditions or deny the application and the applicant shall publish at its own expense a notice of application in the form prescribed by the Commissioner once a week for two consecutive weeks in one newspaper designated by the Commissioner having a general circulation in the county in which the proposed construction or modification of an indirect source is to occur. The applicant shall give such additional notice as the Commissioner may require in order adequately to inform the public of such application.

(b) The notice shall provide for opportunity for written public comment on such application within a stated period not less than thirty days after the date of first publication and shall specify that the application and the

Commissioner's preliminary analysis and determination are available for public inspection and copying at one or more specified locations in the affected air quality control region. Prior to the end of the public comment period, proof of notice shall be submitted to the appropriate regional office of the Department.

(c) A copy of the notice shall be sent by the applicant to: the regional administrator of the United States Environmental Protection Agency; all other State and local air pollution control agencies having jurisdiction in the air quality control region in which the indirect source is proposed to be built; the chief executive of the appropriate city, town, village and county; the appropriate County and Regional Planning Boards; and any appropriate local board or committee charged with responsibility for activities in the conduct of the urban transportation planning process (3-C process) pursuant to 23 U.S.C. 134.

(d) After the period for public comment specified in such notice, the Commissioner will hold a hearing if he determines that there is sufficient public interest in and reason for such a hearing or if the applicant so requests. In making such a determination, he will consider the public comments received, including any requests for a public hearing, and the anticipated impact of the indirect source's effect on air quality. In the event that he determines that a hearing is appropriate, he will direct the applicant to publish notice of such a hearing as prescribed in section 203.6. The hearing shall be held not less than thirty days after notice is first given.

(e) The applicant shall bear the costs of any such hearing, making payment directly to the provider of the services, material or facilities, including the following:

(1) stenographic and other costs of producing the record;

(2) newspaper publication and other costs of giving notice; and

(3) costs of renting any necessary facilities and equipment for holding the hearing.

(f) The Commissioner will consider any public comments timely received in making his final determination. The applicant will be given an opportunity to submit a written response to any public comment and the Commissioner will consider such response in making his final determination.

(g) The Commissioner may dispense with the period for public comment and proceed directly to a public hearing if he determines that the anticipated impact of the proposed project on air quality and/or the public interest so requires or if the applicant so requests. In such a case the applicant shall give notice of hearing instead of notice of application. The notice of hearing shall contain the information required by this section.

Section 203.6 Public notice of hearings.

Public notice of any hearing held pursuant to section 203.5 shall be in a form prescribed by the Commissioner and be circulated in the same manner as specified in section 203.5. It shall specify that the hearing shall be held not less than thirty days after the date of first publication and that persons wishing to be heard at such public hearing may file a statement of the grounds of support of, opposition to or interest in the application at a specified office of the Department prior to the date of the public hearing. It

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shall also specify that persons may submit their comments for the record whether or not wishing to be heard. Proof of notice shall be submitted prior to the date of the public hearing.

Section 203.7 Public hearing procedures.

(a) Parties to the public hearing held pursuant to section 203.5 shall be the applicant, any person who files a written public comment or statement pursuant to section 203.5(b) or section 203.6, any municipality within the boundary of which the indirect source is located and such other persons as the hearing officer shall, in his discretion, determine to be in the public interest to permit to intervene as a party, either generally or for a special purpose.

(b) At any public hearing held pursuant to section 203.5, any party shall be afforded the opportunity to present oral or written statements or arguments and to present evidence on issues of fact; provided, however, that the Department shall have the discretion to fix reasonable time limits on the presentation of oral statements or evidence and when time and scheduling considerations necessitate, may require the submission of statements, arguments or evidence in writing.

(c) The public hearing shall be conducted by a hearing officer designated by the Commissioner. The hearing officer is empowered to:

(1) Provide for the taking of written and oral statements or data;

(2) Require the submission of sworn testimony and permit the cross-examination of witnesses subject to such limitations as he may impose to avoid irrelevant or repetitious cross-examination;

(3) Regulate the course of the hearing, fix the time for the filing of written statments, arguments and evidence, provide for the scheduling and preservation of oral statements, arguments and evidence, and set the time and place for continued hearings; and

(4) Take notice of general and scientific facts, provided that he shall give the parties an opportunity to contest the facts so noticed.

(d) Any materials, including records and documents, in the possession of the Department or which are relevant to the application, may be relied upon by the Commissioner in making his determination. Any document relied on by the Department shall be available for inspection by the parties.

(e) The hearing officer shall make findings of fact and his recommended determination and give reasons for such recommendation and shall forward them to the Commissioner.

(f) The Commissioner may at any time direct the hearing be reopened prior to issuance of the permit to construct where the public interest so requires.

(g) In the event no hearing is held, an official file shall be compiled by the Department consisting of documents submitted by the applicant, any public comments and any additional documents relied on by the Department with respect to the application. Any document made part of such official file shall be available for inspection by the applicant and other interested persons.

(h) The Commissioner may at any time prior to the issuance of the permit to construct request additional information from the applicant.

Section 203.8 Determination.

(a) The Commissioner may issue or deny the permit to construct or issue it subject to conditions as provided in section 203.10.

(b) The Commissioner will notify the applicant and any parties to any public hearing in writing of his approval or disapproval of the application. If he disapproves the application, approves it with substantial modifications or if there has been a public hearing, he shall set forth the reasons for his decision.

Section 203.9 Standards for issuance of permit.

(a) The Commissioner will not issue a permit to construct unless he determines that:

(1) the operation of the indirect source of air contamination or any associated parking area will not cause a violation of any applicable ambient air quality standard adopted pursuant to the Act and in effect at the time of the issuance of the permit or, where a violation of such standard exists, will neither increase the ambient concentration of the applicable pollutant nor interfere with attainment or maintenance of such standard.

(2) the operation of the indirect source of air contamination or any associated parking area will not result in any violation of applicable portions of any control strategy of an applicable air quality implementation plan approved or promulgated under the Act and in effect at the time of the issuance of the permit; and

(3) the operation of the source will not result in a violation of any of the provisions of this chapter.

(b) For purposes of this section, the applicable ambient air quality standards for:

(1) construction of highway sections which will produce an annual average of daily traffic volume of 50,000 or more vehicles within ten years of completion of construction;

(2) modification of a highway section which will increase the annual average of daily traffic volume by 25,000 vehicles or more within ten years after completion of modification; and

(3) airports

shall mean the standards for carbon monoxide, photochemical oxidants and nitrogen dioxide adopted pursuant to the Act. For all other indirect sources, the applicable ambient air quality standard shall mean the standard for carbon monoxide adopted pursuant to the Act. Determinations of whether a violation of such standards will be caused or whether, in the case of an existing violation, ambient concentrations will be increased will be based on anticipated ambient concentrations as of the time of completion of the proposed construction or modification or any phase thereof and during a reasonable time thereafter. In the case of highway sections and airports such time shall be a ten year period following such completion.

(c) The Commissioner will make the determination pursuant to paragraph (a)(1) of this section for carbon monoxide by evaluating the anticipated ambient concentrations of carbon monoxide at receptor or exposure sites where people might reasonably be expected to be exposed and which will be affected by the vehicular movements expected to be

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attracted by the indirect source; such determination shall be based upon traffic flow characteristic guidelines, appropriate atmospheric diffusion models, any other reliable analytic method or any combination thereof.

(d) The Commissioner will make the determination pursuant to paragraph (a)(1) of this section for photochemical oxidants and nitrogen dioxide by evaluating the anticipated ambient concentrations of such pollutants at one or more locations determined by him to be representative of the points of greatest exposure within the affected area.

Section 203.10 Approval subject to conditions.

(a) Whenever an indirect source as proposed by an applicant would not be permitted to be constructed or modified because of failure to meet the standards set forth in section 203.9, the Commissioner may approve the application subject to such conditions as will permit such source, if constructed or modified in accordance with such conditions, to meet the standards set forth in section 203.9.

(b) Notwithstanding the provisions related to modified indirect sources contained in section 203.3, the Commissioner may condition any approval by specifying the extent to which and the period within which the indirect source, when completed, may not be further modified without approval of such modification under this Part.

(c) The Commissioner may at the time of issuance of the permit attach such other conditions, including monitoring requirements, as will assure compliance with the permit or the provisions of this Part; provided, however, that no condition shall be imposed which would require partial or complete curtailment of operation of the indirect source based on unanticipated changes of ambient concentrations of pollutants for which the applicant cannot be responsible; except that nothing herein shall relieve the applicant from responsibility to comply with the provisions of any present or future applicable implementation plan.

Section 203.11 Expiration of permit.

Unless otherwise specified therein, a permit to construct shall expire when no construction or modification has been commenced within a period of two years after the issuance of the permit or when no substantial progress is made in such construction or modification for a period of two years. For the purpose of this section, interruptions resulting from force majeure shall be disregarded. The Commissioner may extend any time period upon a satisfactory showing that an extension is justified.

Section 203.12 Modification of permit.

The permit to construct or any condition thereof may be amended at any time upon written application to the Commissioner and a showing that modification thereof will not result in violation of the standards contained in Section 203.9. The Commissioner may require reapplication under Section 203.4 where he determines that there may be significant public interest in such modification.

Section 203.13 Suspension and revocation of permits.

The Commissioner may suspend a permit to construct at any time upon any of the following grounds:

(a) Failure to construct the indirect source substantially in accordance with the application as approved;

(b) Failure to operate the indirect source in accordance with any conditions imposed by the Commissioner in the permit; or

(c) Materially false or misleading statements in the application or supporting papers.

Section 203.14 Transfer of permits.

A permit to construct shall not be transferable in whole or in part unless and until the transferee has filed a verified statement with the Department acknowledging that the transferee will comply with all the conditions of the permit.

Section 203.15 Procedures for certain highway projects.

With respect to highway projects for which the New York State Department of Transportation prepares environmental impact statements pursuant to the provisions of the National Environmental Policy Act (42 U.S.C. 4321 et seq.), the Commissioner may by memorandum of understanding with the Commissioner of Transportation provide for public notice and hearing procedures which differ from those set forth in this Part and which are consistent with Federal and State statutes and regulations. Nothing contained in this section shall be deemed to relieve the Commissioner of the responsibility to review any such project for compliance with the standards contained in Section 203.9.

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PART 204 HYDROCARBON EMISSIONS FROM STORAGE AND LOADING FACILITIES

New York City Metropolitan Area

Section 204.1 - Area Applicable

This Part shall apply only in New York City Metropolitan area, consisting of the five counties within the City of New York as well as the counties of Nassau, Westchester, Rockland and Suffolk.

Section 204.2 - Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which, alone or in combination with emissions from other sources, would contravene any established standard for the quality of the ambient air, or would cause air pollution.

Section 204.3 - Definitions

a. Effluent Water Separator

Any tank, box, sump or container in which volatile organic material floating, entrained or contained in water entering such tank, box, sump or container is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

b. Submerged Fill Pipe

Any fill pipe the discharge opening of which is entirely submerged when the liquid level is 6 inches above the bottom of the tank; or when applied to a tank which is loaded from the side, shall mean any fill pipe the discharge of which is entirely submerged when the liquid level is 18 inches or is twice the diameter of the fill pipe, whichever is greater, above the bottom of the tank. Compliance with Columns 8 and 9 of Table 6 of API standard 650, dated June 1970, also meets the requirement of this section.

c. Volatile Organic Liquids

Any material containing carbon and hydrogen or containing carbon and hydrogen in combination with any other element or elements which has a vapor pressure of 1.5 pounds per square inch absolute or greater under actual storage conditions and exists as a liquid under conditions of standard temperature and pressure.

d. Gasoline Service Station

A facility for retail sale of gasoline motor fuel.

Section 204.4 - Prohibitions

a. Storage of volatile organic liquids.

No person shall place, store, or hold in any stationary tank, reservoir, or other container of more than 65,000 gallons capacity any volatile organic liquid unless such tank, reservoir, or other container is a pressure tank capable of maintaining working pressures sufficient at all times to prevent vapor or gas loss to the outdoor atmosphere or is designed and equipped with one of the following vapor loss control devices:

1. A floating pontoon type or double deck type roof or internal floating cover, which will rest on the surface of the liquid contents equipped with a closure seal or seals to close the space between the roof edge and tank wall. This control equipment shall not be permitted if the volatile organic liquids have a vapor pressure of 11.0 pounds per square inch absolute or greater under actual storage conditions. All tank gauging or sampling devices shall be gas-tight except when tank gauging or sampling is taking place.

2. A vapor recovery system, consisting of a device capable of collecting the vapor from volatile organic liquids and a means for processing such volatile organic vapors and gases so as to prevent their emission to the outdoor atmosphere. All tank gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.

3. Other equipment or means of equal efficiency for purposes of air pollution control as approved by the Commissioner.

b. Filling of Stationary Storage Vessels

Except in the case of existing underground storage vessels at gasoline service stations and farms, no person shall place store or hold in any stationary storage vessel of more than 275 gallon capacity, any volatile organic liquid unless such vessel is equipped or constructed in accordance with one of the following:

1. A permanent submerged fill pipe.
2. Pressure tank design as described in Section 204.4a.
3. A vapor recovery system as described in Section 204.4a.
4. Other equipment or means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

c. Loading of Mobile Storage Vessels

1. No person shall load any volatile organic liquid into any tank truck, trailer or railroad tank car from any loading facility that transfers more than an average of 40,000 gallons per day over a three month period unless such loading facility is equipped with an approved vapor collection and disposal system properly installed, in good working order and in operation. Such equipment shall consist of the following:

    (a) A loading arm with a vapor collection adaptor.

    (b) A device to force a vapor-tight seal between the adaptor and the hatch.

    (c) A means of preventing the drainage of volatile organic liquid from the loading device when it is removed from the hatch of any tank truck, trailer or railroad tank car or to accomplish complete drainage before such removal.

    (d) Fittings which make vapor-tight connections and which close automatically upon disconnection when loading is effected through means other than hatches.

    (e) Other equipment or means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

2. No person shall load any volatile organic liquid into any tank truck, trailer or railraod tank car fom any loading facility that transfers less than an average of 40,000 gallons per day over a three month period unless such loading facility is equipped with a submerged fill pipe or other means of equal efficiency for purposes of air pollution control acceptable to the Commissioner.

d. The emergency venting of vessels covered by this Part shall not be considered a violation.

e. Effluent Water Separators

No person shall use any compartment of any effluent water separator which recovers 200 gallons a day or more or any volatile organic liquid unless such compartment is equipped with one of the following vapor loss control devices, properly installed, in good working order and in operation.

1. A solid cover having all openings sealed and totally enclosing the liquid contents. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
2. A pontoon type or double deck floating roof, or internal floating cover, which will rest on the surface of the contents, equipped with a closure seal or seals to close the space between the roof edge and container wall. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
3. A vapor recovery system consisting of a vapor gathering system capable of collecting the organic vapors and gases discharged and a vapor disposal system capable of processing such organic vapaors and gases so as to prevent their emission to the outdoor atmosphere. All gauging and sampling devices shall be gas-tight except when gauging or sampling is taking place.
4. Other equipment of equal efficiency for purposes of air pollution control as approved by the Commissioner.

f. Pumps and Compressors

All pumps and compressors handling volatile organic liquids shall have mechanical seals or other equipment of equal efficiency for purposes of air pollution control as approved by the Commissioner.

PART 205

PHOTOCHEMICALLY REACTIVE SOLVENTS AND ORGANIC SOLVENTS FROM CERTAIN PROCESSES - NEW YORK CITY METROPOLITAN AREA

Effective August 23, 1979

Section 205.1 Applicable geographical area. This Part shall apply only to New York City metropolitan area, consisting of the five counties within the City of New York, as well as the counties of Nassau, Westchester, Rockland and Suffolk.

205.2 Definitions. The terms, in addition to those defined in Part 200 of this Title, hereinafter defined for the purposes of this Part shall mean:

(1) Afterburner. A catalytic and/or thermal combustion device used to control air contaminant emissions.

(2) Architectural coating. A surface coating including paints and sealers applied to residential, industrial, public, commercial buildings or any stationary outdoor structures and their appurtenances.

(3) Effluent water separator. Any tank, box, sump or container in which volatile organic material floating, entrained or contained in water entering such tank, box, sump or container is physically separated and removed from such water prior to outfall, drainage or recovery of such water.

(4) Heat cure. A process in which surface coating is heated in a device in which the air temperature exceeds 176°F (80°C) and which has become insoluble in solvents in which it was soluble before being subject to heat.

(5) Heat drying. A process whereby heat is used to evaporate volatile solvent which does not undergo a chemical change.

(6) Non-photochemically reactive solvents. All solvents other than those defined in paragraph (9) of this subdivision.

(7) Organic materials. Any chemical compounds of carbon excluding carbon monoxide, carbon dioxide, carbonic acid, metallic carbides, metallic carbonates, and ammonium carbonate.

(8) Organic solvents. Organic materials which are liquids at a temperature of 70 degrees Fahrenheit and a pressure of 30 inches of mercury absolute which include dilutents and thinners and which are used as but not limited to dissolvers, viscosity reducers, or cleaning agents.

(9) Photochemically reactive solvents. (i) Any solvent containing more than 20 percent by volume of the chemical compounds described below or which contains such compounds below in amounts which exceed the allowable limits of such compounds described below as specified for each category:

(a) Category No. 1. A combination of hydrocarbons, alcohols, aldehydes, esters, ethers or ketones having an olefinic or cyclo-olefinic type of unsaturation: allowable limit five percent.

(b) Category No. 2. A combination of aromatic hydrocarbons with eight or more carbon atoms to the molecule except ethylbenzene: allowable limit eight percent.

(c) Category No. 3. A combination of ethylbenzene, ketones having branched hydrocarbon structures or toluene: allowable limit 20 percent.

(ii) If any organic solvent or any constituent of an organic solvent may, from its chemical structure, be classified into more than one of the above groups of organic compounds, it shall be classified in that category having the lowest allowable volume percentage specified.

(10) Polymerization. A chemical conversion whereby simple molecules (monomers) react under any condition to form polymers.

(11) Water based paint. A coating, the volatile content of which is at least 80 percent water and which contains no photochemically reactive solvents.

205.3 Emission of organic materials from certain emission sources. (a) Except as provided in subdivision (c) of this section, no person shall cause or allow emissions of organic materials through an emission point from any emission source in which any organic solvent, or any material containing an organic solvent, comes into contact with flame, is baked, heat cured or heat polymerized in the presence of oxygen, which are in excess of 15 pounds in any 24 consecutive hours, or three pounds in any one hour except that these limitations shall not apply to any person utilizing control equipment which reduces such emissions of organic material to not more than 15 percent of the amount that would have been otherwise emitted in the absence of such control equipment.

(b) Except as provided in subdivision (c) of this section, no person shall cause or allow emissions of organic materials through an emission point from any emission source not described in subdivision (a) of this section in which any photochemically reactive solvent or any material containing such solvent is used, which are in excess of 40 pounds in any 24 consecutive hours, or eight pounds in any one hour except that these limitations shall not apply to any person utilizing control equipment which reduces such emissions of organic material to not more than 15 percent of the amount that would have been otherwise emitted in the absence of such control equipment.

(c) Subdivisions (a) and (b) of this section shall not be effective until January 31, 1974, with respect to any person who owns or operates an emission source which was in existence and operating prior to August 11, 1972.

(d) Where organic materials from a single emission source are emitted through more than one emission point, the sum of the emissions from all such emission points shall not exceed the quantity that would be permitted if said emissions were emitted through a single emission point.

205.4 Opacity of emission limited. No person shall cause or allow emissions to the outdoor atmosphere having an opacity of 10 percent or greater from any emission source described in subdivision (a) of section 205.3 of this Part.

205.5 Use of afterburners for control of emissions. No person shall utilize an afterburner to control emissions of organic material as required by section 205.3 of this Part, unless 90 percent or more of the carbon content of such organic material is oxidized to carbon dioxide.

205.6 Sale or purchase of certain architectural coatings prohibited. After January 31, 1974, no person shall sell, offer for sale or purchase any architectural coating containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans.

205.7 Application or disposal of certain materials restricted. After January 31, 1975, no person shall:

(a) apply any architectural coating containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans, or

(b) dispose of any photochemically reactive solvent or any material containing a photochemically reactive solvent, except architectural coatings contained in aerosol spray cans, by any means which will permit the evaporation of such solvent into the outdoor atmosphere.

205.8 Identification of architectural coatings required. Each container of any architectural coating sold or offered for sale in the New York City metropolitan area after January 31, 1974, shall be marked with a code identifying the product in the container, and any manufacturer of any architectural coating sold or offered for sale in the New York City metropolitan area after January 31, 1974 shall maintain records which list the solvent composition of the product represented by the code and shall make such records available to the commissioner upon his request.

205.9 Exemptions. This Part shall not apply to:

(a) The manufacture, transport or storage of organic solvents or materials containing organic solvents.

(b) The use of effluent water separators.

(c) The spraying or other employment of insecticides, pesticides, or herbicides.

(d) The use of saturated halogenated hydrocarbons, perchloroethylene or trichloroethylene.

(e) The use or sale of water based paint.

(f) The use of coatings, the volatile content of which does not exceed 20 percent by weight and which contain only non-photochemically reactive solvents.

(g) The application and heat drying of printing ink which contains less than 30 percent organic solvent by weight.

(h) Any source regulated under Part 226 or Part 228.

PART 207 CONTROL MEASURES FOR AN AIR POLLUTION EPISODE

Section 207.1 Definitions

a. Significant Air Contamination Source

Any air contamination source the emissions of which alone or in combination with others can be expected to have an adverse effect on ambient air quality during an air pollution episode. This category includes, but is not limited to: air contamination sources with emissions in excess of 100 tons per year; fossil fuel burning equipment rated at more than 200 million BTU per hour input; processes exhaust or ventilating systems with particulate emissions in excess of 100 lbs/hr; process, exhaust or ventilating systems which emit sulfur dioxide at a rate exceeding 10 lbs/hr; incinerators with particulate emissions in excess of 50 lbs/hr.

Section 207.2 Episode Action Plan

a. Any person who owns a significant air contamination source shall submit a proposed episode action plan to the Commissioner within 90 days of his request therefor. The plan shall contain detailed steps which will be taken by the air contamination source owner to reduce air contaminant emissions during each stage of an air pollution episode. The Commissioner shall make available and furnish with his request therefor, guidelines for preparation of episode action plans.

b. Any person may submit a proposed episode action plan to the Commissioner whether or not the air contamination source to be covered by the plan is a significant air contamination source. Such plan, if approved by the Commissioner, would prescribe the steps to be taken by the source owner during an air pollution episode any summary order of the Commissioner to the contrary not withstanding.

c. Any person who owns a significant air contamination source or voluntarily submits an episode action plan in accordance with Subdivision 207.2(b) shall submit to the Commissioner within 90 days of his request therefor, a proposed modification of his episode action plan to accommodate advances in technology or knowledge of contaminant effects.

d. The Commissioner may issue an episode action plan to any person who fails to submit an acceptable plan or plan modification within the required time when so requested.

e. Upon petition, within 60 days of approval or issue of an episode action plan, the Commissioner shall grant a hearing to the significant air contamination source owner at a time and place as determined by the Commissioner.

f. An owner of a significant air contamination source shall make his episode action plan available at a convenient location on his premises for review by the Commissioner or his representative, at any time.

Section 207.3 Air Pollution Episode

a. When weather conditions and/or concentration of an air contaminant or contaminants are such that immediate action is necessary to prevent further increases in air contamination or damage to life, property or environmental quality, the Commissioner shall designate by order that a Forecast, Alert I, Alert II or Emergency stage of an air pollution episode exists. The Commissioner shall have on file and make available the criteria used in determining the need to designate episodes.

b. The Commissioner may also designate by order that an episode exists when a single accident, occurence or condition has resulted or is likely to result in damage to life, property or environmental quality.

c. Once designated by the Commissioner, an episode or any stage of an episode shall remain in effect until terminated by the Commissioner.

d. Any person who owns an air contamination source for which an episode action plan has been issued or approved shall take whatever actions are prescribed by his episode action plan when an air pollution episode is in effect.

Part 211 - GENERAL PROHIBITIONS

Section 211.1 Definitions.

(a) Asphalt. The dark brown to black cementitious material (solid, semisolid, or liquid in consistency) of which the main constituents are bitumens which occur naturally or as a residue of petroleum refining.

(b) Cutback asphalt. Any asphalt which has been liquified by blending with petroleum solvents (diluents) or, in the case of some slow cure asphalts (road oils), which have been produced directly from the distillation of petroleum.

(c) Penetrating prime coat. An application of low viscosity liquid asphalt to an absorbent surface in order to prepare it for paving with an asphalt concrete.

Section 211.2 Air pollution prohibited.

No person shall cause or allow emissions to the outdoor atmosphere of such quantity, characteristic, or duration which are injurious to human, plant, or animal life or to property, or which unreasonably interfere with the comfortable enjoyment of life or property. Notwithstanding the existence of specific air quality standards or emission limits, this prohibition applies, but is not limited to any dust, fume, gas, mist, odor, smoke, vapor, pollen, toxic or deleterious emission, either alone or in combination with others.

Section 211.3 Visible emissions limited.

Except as permitted by a specific part of this subchapter and for open fires for which a restricted burning permit has been issued, no person shall cause or allow any air contamination source to emit any material having an opacity equal or greater than 20 percent for a period of three or more minutes during any continuous 60 minute period.

Section 211.4 Volatile organic compounds prohibited.

The use of volatile organic compounds to liquify asphalt used for paving is prohibited except for:

(a) Asphalt used in the production of long-life stockpile material for pavement patching and repair.

(b) Asphalt applied at low ambient temperature from October 16 to May 1.

(c) Asphalt used as a penetrating prime coat for the purpose of preparing an untreated absorbent surface to receive an asphalt surface.

(d) Cutback asphalts used in the manufacture of asphalt emulsions which contain less than 15% by weight of volatile organic compounds.

PART 212 CONTAMINANT EMISSIONS FROM PROCESSES, AND EXHAUST AND VENTILATION SYSTEMS

Section 212.1 Applicability

This Part shall apply throughout the State of New York to contaminant emissions from processes, and exhaust and ventilation systems, except that when another Part applies to a specific air contaminant or a specific air contamination source, that Part shall take precedence and shall be applied in place of this Part.

Section 212.2 Definitions

a. Air Contamination Source or Emissions Source

Any apparatus, contrivance or machine capable of causing emission of any air contaminant to the outdoor atmosphere either directly or through an exhaust system, an air cleaning device or a stack. When more than one apparatus, contrivance or machine is connected to a single exhaust system air cleaning device or stack, each such apparatus, contrivance or machine shall be considered a separate air contamination source.

b. Emission Rate Potential

The rate in weight per unit time at which air contaminants would be emitted to the outdoor atmosphere in the absence of air pollution control facilities or other control measures. The emission rate potential for cyclic operations shall be determined by considering the peak emission potential and the total emission potential over the time period of the cycle.

c. Environmental Rating

A rating indicated by the letter A, B, C, or D, which considers the environmental effects of an air contamination source on its surroundings.

d. Exhaust and/or ventilation system

Any system which removes air contaminants from a process and transports them from their point of generation to the outdoor atmosphere.

e. Permissible emission rate

The maximum rate at which air contaminants are allowed to be emitted to the outdoor atmosphere.

f. Process Weight

The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in the process is considered part of the process weight, but liquid and/or gaseous fuel uncombined water and combustion air are not.

g. Process Weight Per Hour

The total process weight divided by the number of hours in one complete operation from the beginning of a cycle to the completion thereof. For continuous processes, process weight should be determined on a daily basis.

Section 212.3 Prohibitions

a. No person shall cause, permit or allow the emission of air contaminants from an emission source resulting from an operation begun or modified, after the effective date of this Part, which exceeds the permissible emission rates specified in tables 2 and 3, for the environmental rating as determined in accordance with table 1.

b. On January 1, 1971, or such later date as established by an order of the Commissioner, the permissible emission rates specified in Subdivision (a) shall become applicable to emission sources in existence on or prior to the effective date of this Part.

c. The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established air quality standards.

Section 212.4 Abatement

a. The Commissioner may require the person operating or maintaining emission sources to provide pertinent data concerning emissions so as to show compliance with the requirements of Section 212.3.

b. When required by the Commissioner, the person operating or maintaining emission sources in operation before the effective date of this Part shall submit a detailed report including emission data, pertinent environmental factors and a proposed environmental rating so as to show conformity with this Part of proposed corrective measures and schedule for compliance. If this report is acceptable, the Commissioner will so notify the person operating or maintaining the emission source. If the report is not acceptable, the Commissioner will notify the person operating or maintaining the emisson source as to the reasons together with an environmental rating that is acceptable and a time schedule for compliance. Upon petition to the Commissioner within 30 days of such notice, the Commissioner shall grant a hearing to the petitioner.

c. Persons beginning or modifying operations after the effective date of this Part are required to submit to the Commissioner or his representative, either prior to* or concurrently with submission of plans and/or specifications, an appraisal of the items mentioned in table 1‡ in the form of a report including the proposed rating to be used for design purposes.

d. The Commissioner may seal any process equipment or prohibit any operation in accordance with a determination made under the provisions of Section 1282 of Article 12-A of the Public Health Law. The seal may be removed form the equipment only upon receipt of written notice from the Commissioner.

Section 212.8 Exceptions. The process, exhaust and/or ventilation systems hereinafter set forth are excepted from the provisions of this Part:

(d) By-product coke oven batteries with respect to [smoke and] opacity, sulfur compound emissions [only.] and emissions of particulates which do not have toxic properties.

(e) [Hydrocarbon] Gasoline storage and [loading] transfer facilities subject to Part [204] 229.

(h) Processes, exhaust and/or ventilation systems in a petroleum refinery subject to Part 223 with respect to sulfur compound emissions[.] and emissions of volatile organic compounds not having toxic properties.

(k) Solvent metal cleaning processes subject to Part 226 with respect to emissions of volatile organic compounds not having toxic properties.

(l) Iron and/or steel processes with respect to opacity and emissions of particulates which do not have toxic properties.

(m) Surface coating operations subject to Part 228 with respect to emissions of volatile organic compounds not having toxic properties.

(n) Processes, exhaust and/or ventilation systems subject to Part 205 with respect to emissions of volatile organic compounds not having toxic properties.

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‡ See Appendix 4.

*It is recommended that for large installations the report be submitted prior to submission of plans. Following approval of the preliminary report, final detailed plans and/or specifications will be completed and submitted to the Commissioner or his representative for approval.

APPENDIX 4

Table 1

Environmental Rating

Rating	
A	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants results, or would reasonably be expected to result, in serious adverse effects on receptors or the environment. These effects may be of a health, economic or aesthetic nature or any combination of these.
B	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants results, or would reasonably be expected to result, in only moderate and essentially localized effects; or where the multiplicity of sources of the contaminant or comtaminants in any given area is such as to require an overall reduction of the atmospheric burden of that contaminant or contaminants.
C	Includes processes, and exhaust and ventilation systems where the discharge of a contaminant or contaminants would reasonably be expected to result in localized adverse effects of an aesthetic or nuisance nature.
D	Includes processes, and exhaust and ventilation systems where, in view of properties and concentrations of the emissions, isolated conditions, stack height, and other factors, it can be clearly demonstrated that discharge of the contaminant or contaminants will not result in measurable or observable effects on receptors, nor add to an existing or predictable atmospheric burden of that contaminant or contaminants which would reasonably be expected to cause adverse effects.

The following items will be considered in making a determination of the environmental rating to be applied to a particular source:

a) properties, quantities and rates of the emission

b) physical surroundings of emission source

c) population density of surrounding area, including anticipated future growth

d) Dispersion characteristics at or near source

e) Location of emission source relative to ground level and surrounding buildings, mountains, hills, etc.

f) Current or anticipated ambient air quality in vicinity of source

g) Latest findings relating to effects of ground-level concentrations of the emission on receptors

h) Possible hazardous side effect of contaminant in question mixing with contaminants already in ambient air

i) Engineering guides which are acceptable to the Commissioner

TABLE 2

Usual Degree of Air Cleaning Required (1)
from
Processes, and Exhaust and Ventilation Systems
for
Gases and Liquid Particulate Emissions (Environmental Rating A and D)
and
Solid Particulate Emissions (Environmental Rating A and D)

	EMISSION RATE POTENTIAL (LB/HR)									
Environmental Rating	Less than 1.0	1 to 10	10 to 20	20 to 100	100 to 500	500 to 1,000	1,000 to 1,500	1,500 to 4,000	4,000 to 10,000	10,000 and Greater
A	See Note (2)	99% OR GREATER								
B	*		90-91%	91-94%	94-96%	96-97%		97-98%	98-99%	99% or Greater
C	*		70-75%	75-85%	85-90%	90-93%		93-95%	95-98%	98% or Greater
D	*									

* Degree of air cleaning may be specified by the Commissioner providing satisfactory dispersion is achieved.

(1) Where multiple emission sources are connected to a common air cleaning device, the degree of air cleaning required will be that which would be required if each individual emission source were considered separately.

(2) For an average Emission Rate Potential less than 1.0 lb/hr, the desired air cleaning efficiency shall be determined by the expected concentration of the air contaminant in the emission stream. Where it is uneconomical to employ air cleaning devices, other methods of control should be considered.

APPENDIX 4

TABLE 3

Allowable Emissions
from
Processes, and Exhaust and Ventilation Systems
for
Solid Particulates (Environmental Rating B & C)

Process Weight (lb/hr)	Maximum Weight Discharge*** (lb/hr)
100	.50
500	1.46
1,000	2.30
5,000	6.70
10,000	10.80
25,000	20.00
50,000	31.80
75,000	43.00
100,000 **	50.00
250,000 **	58.20
500,000**	64.30
750,000**	68.40
1,000,000**	71.10
2,000,000**	78.30
5,000,000**	88.10

* In cases where process weight is not applicable (such as grinding and woodworking) the concentration of solid particulates in the effluent gas stream shall not exceed 0.3 lb/1000 lb of undiluted exhaust gas at actual conditions.

** For process weights in excess of 100,000 lb/hr, the permissible maximum weight discharge may exceed tabular value if the concentration of particulate matter in the effluent gas stream is less than 0.1 lb/1000 lb of undiluted exhaust gas at actual conditions.

*** To determine intermediate values of maximum weight discharge:
for process weights up to 100,000 lb/hr use $E=0.024P^{0.665}$
for process weights in excess of 100,000 lb/hr use $E=39P^{0.082}-50$
where E=maximum weight discharge in lb/hr; P=process weight in lb/hr.

PART 213 CONTAMINANT EMISSIONS FROM FERROUS JOBBING FOUNDRIES

Section 213.1 Applicability

This Part shall apply to all ferrous jobbing foundry cupolas and ferrous jobbing foundry open hearths in operation on or prior to the effective date of this Part and to subsequent modifications but not to production foundries or any new foundries.

Section 213.2 Definitions

a. Foundry Cupola

A stack-type furnace used for melting of metals, consisting of, but not limited to, furnace proper, tuyeres, fans or blowers, tapping spout, charging equipment, gas cleaning devices and other auxiliaries.

b. Foundry Open Hearth

A furnace in which the melting and refining of metal is accomplished by the application of heat to a saucer type or shallow hearth in an enclosed chamber. Such furnace consists of, but is not limited to, the furnace proper, checkers, flues and stack and may include a waste heat boiler, an oxygen lance and other auxiliaries pertinent to the process.

c. Jobbing Foundry

Any foundry where operations run intermittently for just long enough at one time to pour the molds that are ready on the foundry floor, job by job.

d. Melt Time

The time in which the metal is melting and available at the spout or tap hole, excluding any time the equipment is idle, preheating or preparing for shut down.

e. Production Foundry

Any foundry where operations will run continuously to pour a succession of molds that are constantly being prepared to receive the continuous flow of iron, or any foundry where the process weight will exceed 50,000 lb/hr, or any operation where melt times are in excess of four hours per 24-hour period.

Section 213.3 Prohibition

a. After January 1, 1971, no person shall cause, permit or allow the emission of air contaminants, which will exceed the limits specified in table 1*, from any ferrous jobbing foundry cupola or ferrous jobbing foundry open hearth in operation on or prior to the effective date of this Part, this prohibition to be applicable, also, to modifications made after the effective date of this Part, to such a cupola or open hearth.

b. The Commissioner may modify the limits specified in Table 1(Appendix 4,infra) if in view of the properties of the emissions, isolated conditions, stack height and other factors, it can be clearly demonstrated that discharge of the contaminant or contaminants will not result in measurable or observable effects on receptors, nor add to an existing or predictable atmospheric burden of such contaminant or contaminants so that adverse effects would reasonably be expected therefrom.

c. The provisions of this section shall not be construed to allow or permit any person to emit air contaminants in quantities which alone or in combination with other sources would contravene any established air quality standards. In such cases the Commissioner may specify the degree of treatment required.

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* See Appendix 4

PART 214 BY-PRODUCT COKE OVEN BATTERIES

Section 214.1 Compliance Schedules

a. After October 31, 1972, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless the owner or operator has submitted an environmental analysis report and compliance schedule for acceptance by the Commissioner. Such reports shall include emission data, pertinent environmental factors and a proposed environmental rating to show conformity with Part 212. In the event of rejection, the Department shall issue an environmental rating and a compliance schedule for such source.

b. After May 31, 1974, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless it is in compliance with the schedule accepted or issued by the Commissioner.

Section 214.2 Control Equipment

After December 31, 1974, or such later date as determined by an order of the Commissioner, no person shall operate a by-product coke oven battery including auxiliary gas collecting and heating systems unless such battery is equipped with control equipment, such as but not limited to, hood(s) and/or gas mover(s) capable of capturing, containing and collecting gaseous and particulate emissions resulting from distillation, charging and pushing of coke from such by-product coke oven battery. Such control equipment shall contain, collect and/or treat the captured and/or contained contaminants prior to discharge to the outdoor atmosphere so as not to exceed the permissible emission rate specified in Part 212.

Section 214.3 Smoke Emissions

After December 31, 1974, or such later date as determined by an order of the Commissioner, no person shall operate a by-product coke oven battery which emits a smoke equal to Ringelmann #1 or 20% opacity. Such person who operates a by-product coke oven battery shall be allowed an emission of smoke from the battery of greater than Ringelmann #1 or 20% opacity if such emission continues for a period or periods aggregating no more than three minutes of any consecutive 60 minute period.

Section 214.4 Sulfur Compound Emissions

After December 31, 1974, no person shall operate any by-product coke oven battery including auxiliary gas collecting and heating systems in such a manner as to emit, burn or flare process gas containing more than 50 grains of sulfur compounds (measured as hydrogen sulfide) per 100 standard cubic feet of gas.

Section 214.5 Corrective Action

If the smoke emission from an oven door exceeds the emission limit under Section 214.3, the oven door shall be repaired or replaced and oven cracks shall be sealed prior to the next coking cycle which starts on the next daylight turn. Luted doors which leak smoke shall be reluted immediately.

PART 215 OPEN FIRES

Section 215.1 Definitions

a. Garbage

The animal and vegetable waste resulting from the handling, preparation, cooking and serving of food.

b. Open Fire

Any outdoor fire or outdoor smoke producing process from which air contaminants are emitted directly into the outdoor atmosphere.

c. Refuse

All waste material, including but not limited to, garbage, rubbish, incinerator residue, street sweepings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

d. Refuse Disposal Area

Land used for depositing of refuse except that it shall not include land used for depositing of refuse from a single family, a member of which is the owner, occupant or lessee of said land, or any part of a farm on which only animal or vegetable wastes resulting from the operation of such farm are deposited. This definition includes, but is not limited to, those areas commonly referred to as landfills, sanitary landfills, and dumps.

e. Rubbish

Solid or liquid waste material, including but not limited to, paper and paper products; rags; trees, or leaves, needles and branches therefrom; vines; lawn and garden debris; furniture; cans; crockery; plastics; cartons; chemicals; paint; grease; sludges; oils and other petroleum products; wood; sawdust, demolition materials; tires; and automobiles and other vehicles and parts, for junk, salvage, or disposal. Rubbish shall not include garbage, incinerator residue, street sweepings, dead animals, or offal.

Section 215.2 Prohibitions.

Except as permitted by Section 215.3, no person shall burn, cause, suffer, allow, or permit the burning in an open fire:

a. Of garbage;

b. Of refuse at a refuse disposal area;

c. Of rubbish for salvage;

d. For on-site disposal, of rubbish generated by residential activities in any city or village; or in any town with a total town population, including incorporated or unincorporated areas, of greater than 20,000;

e. For on-site disposal, of rubbish generated by industrial or commercial activities other than agricultural;

f. Of rubbish generated by land clearing or demolition for the erection of any structure; for the construction or modification of any highway, railroad, power or communication line, or pipeline; or for the development or modification of a recreational area or park;

g. Of refuse during an air pollution episode, in an area for which such air pollution episode has been designated.

Section 215.3 Restricted Burning

Burning in an open fire, provided it is not contrary to other law, will be permitted as follows:

a. Burning of land clearing and/or demolition material consisting of wood, trees, tree trimmings, leaves, or brush, generated by land clearing or demolition for the erection of any structure: for the construction or modification of any highway, railroad, pipeline, or power or communication line, or for the development or modification of a recreational area or park; provided that such burning is done on-site or at an appropriate designated burning area and in accordance with a permit issued by the Commissioner after written application. An application for such permit shall include the reasons why such burning should be permitted and such other information as may be required by the Commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the Commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the Commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning;

or the occurrence, or likely occurrence, of either air pollution or contravention of air quality standards as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety or to prevent serious air pollution, the permit may be suspended pending a hearing.

b. Burning at an appropriate designated burning area, serving a county, city, town, or village, of yard wastes consisting of trees, tree trimmings, leaves, and brush; provided that such burning is done in accordance with a permit issued by the Commissioner after written application. An application for such permit shall include the reasons why such burning should be permitted and such other information as may be required by the Commissioner to insure that such burning will be unlikely to result in contravention of air quality standards or to cause air pollution. If the Commissioner approves such application he will issue a permit which shall be for a specified period and shall contain such conditions as are deemed necessary to prevent air pollution and contravention of air quality standards. The permit may be revoked by the Commissioner if there is: a failure to comply with its conditions; a violation of law in connection with the burning; or the occurrence, or likely occurrence of either air pollution or contravention of air quality standards. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

c. Burning, on-site, in areas of the State to be designated by the Commissioner, of paper, paper products, cartons, tree trimmings, leaves, or lawn and garden debris.

    1. The Commissioner will consider whether to designate such an area after petition by governing body of a county, city, village, or town within which such area would be located. Such petition shall include the geographical boundaries, population density, and meteorological characteristics of such area; the material to be burned; proposed control methods; and reasons why burning in an open fire should be allowed in such area.

    2. Such designation, if made, shall be by rule or regulation adopted in accordance with Section 15 of the Environmental Conservation Law. In designating such an area, the Commissioner will set forth any conditions deemed appropriate.

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3. The Commissioner shall, from time to time, review air pollution safeguards in each designated area to determine whether the designation should be rescinded.

d. Burning at an appropriate designated site of toxic, explosive, or dangerous materials; provided that such burning is done only in accordance with a permit which will be issued by the Commissioner after written application if he determines that there is no other safe or economical method of disposal. Such permit will be for a specified period and shall contain such conditions as are deemed necessary in the interest of health or safety. Such permit may be revoked if there is: a failure to comply with its conditions; a violation of law in connection with the burning, or an apparent serious threat to health or safety as a result of the burning. Before revocation of a permit, the permittee shall have the right to be heard; but where prompt action is necessary because of danger to the public health or safety, or to prevent serious air pollution, the permit may be suspended pending a hearing.

PART 216 SMOKE

Section 216.1 Definitions

a. Combustion Installation

A plant, equipment, or device in which fuel is burned for the purpose of generating heat, steam or hot water.

b. Commissioner

The Commissioner of Health of the State of New York.

c. Control Equipment

A device or process which is used to reduce the emission of smoke or gaseous or particulate contaminants.

d. Fuel

Solid, liquid, or gaseous combustible materials used primarily either to kindle or sustain fire or to produce heat, including refuse to be consumed in refuse-burning equipment.

e. Ringelmann Chart

The chart published and described in the U.S. Bureau of Mines Information Circular 7718, on which are illustrated graduated shades of gray for use in estimating the light obscuring density of smoke.

f. Smoke

Small gas-borne particles, consisting essentially of black carbonaceous material from the burning of fuel, in sufficient number to be observable.

Section 216.2 Prohibition

a. No person shall operate any combustion installation which is first put into operation after February 1, 1967, so as to produce, emit or permit the escape of smoke regardless of how produced or discharged, of a shade of gray density darker than No. 1 on the Ringelmann Chart or equivalent standard, except as permitted in Section 216.3.

b. No person shall operate any combustion installation, which was in operation on or before February 1, 1967, so as to produce, emit or permit the escape of smoke, regardless of how produced or discharged, of a shade of gray density darker than No. 2 of the Ringelmann Chart or equivalent standard except as permitted in Section 216.3.

Section 216.3 Exceptions

a. When building a new fire, tube blowing, or when a breakdown of equipment occurs which makes it evident that the emission was not reasonably preventable, smoke which is not greater than No. 3 of the Ringelmann Chart or equivalent standard may be emitted for a period or periods not exceeding three minutes in any 30-minute period.

b. Special equipment to prevent frost damage may be used in agricultural operations with the concurrence and approval of the full-time health officer.

c. Smoke may be emitted for purposes of training or research when approved by the Commissioner.

Section 216.4 Abatement

a. The Commissioner may require the installation of smoke recording devices on any combustion installation where the density of smoke emission has repeatedly exceeded the permissible smoke density limits set forth in Section 216.2.

b. The Commissioner may require the installation of control equipment or devices to control any equipment which causes a violation of Section 216.2.

c. The Commissioner may order a change in the manner of operation of any fuel-burning equipment or other combustion installation which is operated so as to cause a violation of Section 191.2.

d. The Commissioner may order the cleaning, repair, replacement or alteration of any fuel-burning equipment, combustion installation or control equipment which causes or is operated so as to cause a violation of Section 216.2.

e. The Commissioner may seal any equipment which does not conform to the requirements of Section 191.2. The seal may be removed from equipment only upon receipt of written notice from the Commissioner stating that the equipment has been corrected to his satisfaction and that it may be restored to use or operation.

PART 217 EMISSIONS FROM MOTOR VEHICLES PROPELLED BY GASOLINE ENGINES

Section 217.1 Definitions

a. Aftermarket replacement (when used in connection with motor vehicle emission control devices or systems). A motor vehicle emission control device or system other than a direct replacement, installed as a substitute for the motor vehicle emission control device or system originally installed at the factory.

b. Crankcase

The three-dimensional space within a motor vehicle engine which is connected to the oil sump by internal passages through which gases can flow.

c. Crankcase Emissions

Air contaminants emitted or which may be emitted to the outer air through any opening in the engine crankcase.

d. Direct Replacement (when used in connection with motor vehicle emission control devices or systems).

A motor vehicle emission control device or system of the same design and resulting in at least as great reduction in air contaminant emissions as original equipment, and which is installed as a replacement for the motor vehicle emission control device or system originally installed at the factory.

e. Exhaust Emissions

Air contaminants emitted or which may be emitted to the outer air from any opening downstream from the exhaust ports of a motor vehicle engine.

f. Gasoline Motor Vehicle

A motor vehicle propelled by a gasoline spark ignition engine, except motorcycles, motor vehicles propelled by a two cycle spark ignition engine designated to burn a mixture of gasoline with oil, and special purpose commercial motor vehicles registered under Schedule F of Subdivision 7 of Section 401 of the Vehicle and Traffic Law.

g. Gasoline Motor Vehicle Exhaust Analysis System

A device for measuring the amount of air contaminants in the exhaust emissions from a gasoline motor vehicle. The device shall be a design and model approved by the Commissioner of Environmental Conservation.

h. Light Duty Motor Vehicle

A motor vehicle rated at 6,000 pounds gross vehicle weight or less.

i. Motor Vehicle

A vehicle which can travel on land and which is propelled by means other than human or animal muscular power, except such vehicles which run only on tracks or rails.

j. Motor Vehicle Emission Control Device or System

Equipment designed for installation of a motor vehicle for the purpose of reducing air contaminant emissions, or a system or engine modification on a motor vehicle which causes a reduction in air contaminant emissions from the vehicle.

k. Motor Vehicle Model Year

The production year of a new motor vehicle designated by the calendar year in which such period ends. If the motor vehicle manufacturer does not designate a production period, the motor vehicle model year shall mean the calendar year during which the motor vehicle was produced.

Section 217.2 Crankcase Emissions

a. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in this state, manufactured or assembled after June 30, 1963, and known as a 1964, 1965, 1966, or 1967 model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system which will return at least 80% of weighted 7th decile crankcase emissions to the induction system.

b. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in the state, manufactured or assembled after June 30, 1967, and known as a 1968 or subsequent model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system which will return all the crankcase emissions to the induction system as originally required for certification by federal regulations.

c. No person shall replace a motor vehicle emission control device or system for control of crankcase emissions on a gasoline motor vehicle registered in this state with an aftermarket replacement unless the aftermarket replacement has been approved by the Commissioner.

d. No person shall sell or offer for sale an aftermarket replacement motor vehicle emission control device or system for control of crankcase emissions unless the aftermarket replacement has been approved by the Commissioner.

e. A manufacturer or vendor of a motor vehicle emission control device or system for control of crankcase emissions who seeks approval for aftermarket replacement sales shall submit to the Commissioner a report demonstrating compliance with the requirements for controlling crankcase emissions. Where applicable, previous criteria and test methods for approval of such motor vehicle emission control devices or systems for aftermarket replacement, in effect since September 13, 1963, shall continue in effect with these requirements. If the Commissioner finds the report acceptable, he shall issue a certificate of approval.

Section 217.3 Exhaust Emissions

a. No person shall operate a gasoline motor vehicle registered in this state, or shall re-register a gasoline motor vehicle in this state, manufactured or assembled after June 30, 1967, and known as a 1968 or subsequent model unless the engine of that gasoline motor vehicle is equipped with a motor vehicle emission control device or system limiting exhaust emissions as originally required for certification by federal regulations or with an equivalent aftermarket device or system approved by the Commissioner.

b. No person shall sell or offer for sale an aftermarket replacement motor vehicle emission control device or system for control of exhaust emissions unless the aftermarket replacement has been approved by the Commissioner.

c. A manufacturer or vendor of a motor vehicle emission control device or system for control of exhaust emissions who seeks approval for aftermarket replacement sales shall submit to the

Commissioner a report demonstrating compliance with the federal exhaust emissions standards for the particular model year and gasoline motor vehicle engine-transmission-carburetor (injector) combination for which such motor vehicle emission control device or system is intended. The report shall include results of tests using the appropriate federal exhaust emission testing procedure by a laboratory acceptable to the Commissioner. The Commissioner may, however, request additional test data. If the Commissioner finds the report acceptable, he shall issue a certificate of approval.

d. No person who owns, operates or leases a light duty gasoline motor vehicle shall operate said vehicle or allow or permit it to be operated in such a manner that it emits carbon monoxide (CO) or hydrocarbons (HC) in the exhaust emissions in excess of the emission standards set forth in Table 1, when subjected to the test procedure prescribed in Subparagraphs (1) and (2).

   1. With motor vehicle in neutral gear, all accessories off, hand brake secured, and engine running at idle, insert sampling probe of gasoline motor vehicle exhaust analysis system into the motor vehicle exhaust outlet.

   2. The steady state levels measured as percent carbon monoxide and parts per million hydrocarbons (as hexane) in the exhaust emissions shall be the test results.

TABLE 1

Exhaust Emission Standards

Motor Vehicle Model Year	Exhaust Emission Control Type*	Effective Immediately		Effective January 1, 1974	
		CO(%)	HC(PPM)	CO(%)	HC(PPM)
1967 and earlier		7.5	1200	6.5	1000
1968 and 1969	A.I.	5.0	600	4.0	500
	E.M.	6.0	700	5.0	600
1970 and later	A.I.	4.0	450	3.0	350
	E.M.	5.0	700	4.0	450

*A.I. indicates air injection type emission control systems.

E.M. indicates engine modification type emission control systems.

Section 217.4 Exemptions

a. Any person engaged in research or development of new or improved motor vehicle emission control devices or systems may remove or alter a state or federally approved device or system on a gasoline motor vehicle upon receiving a waiver from the Commissioner. The Commissioner shall grant the waiver if the applicant clearly demonstrates that the proposed device or system is based upon sound scientific principles and shows promise for reducing gasoline motor vehicle emissions.

Section 217.5 Visible Emissions

No person shall operate a gasoline motor vehicle on a public highway in such a manner that visible emissions of a shade of blue, black or blue-black are produced for a continuous period of more than five seconds when the vehicle is in motion.

Section 217.6 General Standards

In addition to all other requirements imposed by these standards, any system or device installed on or incorporated in a motor vehicle or motor vehicle engine to prevent or control air pollution therefrom shall not in its operation or function:

a. Cause the emission into the ambient air of any noxious or toxic matter that is not emitted in the operation of such motor vehicle or motor vehicle engine without such system or device, except as specifically permitted by these rules.

b. Result in any unsafe condition endangering persons or property including the motor vehicle and its occupants.

Part 218 SMOKE EMISSIONS FROM DIESEL ENGINES

Section 218.1 Applicability. This Part shall apply to all vehicles propelled by a diesel engine, excluding marine vessels.

Section 218.2 Prohibitions. (a) No person who owns, operates or leases a vehicle propelled by a diesel engine or who owns, leases or occupies land and has actual or apparent dominion or control over the operation of a vehicle propelled by a diesel engine which is present on said land, shall operate said vehicle or allow or permit it to be operated, in such a manner that exhaust emissions of a shade of blue, black or grey equal to or greater than No. 1 on the Ringelmann chart or equivalent standard acceptable to the commissioner are produced for a continuous period of more than five seconds when the vehicle is in motion.

(b) No person who owns, operates or leases a bus or truck, the motive power for which is provided by a diesel engine or who owns, leases or occupies land and has the actual or apparent dominion or control over the operation of a bus or truck present on such land, the motive power for which said bus or truck is provided by a diesel engine, shall allow or permit the diesel engine of such bus or truck to idle for more than five consecutive minutes when the bus or truck is not in motion, except as otherwise permitted by section 218.3.

Section 218.3 Exceptions. The prohibitions of subdivision (b) of section 218.2 shall not apply when:

(a) A bus or truck is forced to remain motionless because of traffic conditions over which the operator thereof has no control.

(b) Regulations adopted by Federal, State or local agnecies having jurisdiction require the maintenance of a specific temperature for passenger comfort. The idling time specified in subdivision (b) of section 218.2 may be increased, but only to the extent necessary to comply with such regulations.

(c) A diesel engine of a truck is being used to provide power for an auxiliary purpose, such as loading, discharging, mixing or processing cargo; controlling cargo temperature; construction; lumbering; oil or gas well servicing; farming; or when operation of the engine is required for the purpose of maintenance.

(d) Fire, police and public utility trucks or other vehicles are performing emergency services.

(e) Trucks and heavy duty construction equipment propelled by diesel engines, owned or operated by persons engaged in mining and quarrying are used within the confines of such persons' property.

(f) A truck is to remain motionless for a period exceeding two hours, and during which period the ambient temperature is continuously below 25 degrees Fahrenheit.

PART 219 - INCINERATORS

Section 219.1 Title

These rules shall be known as the New York State Rules to Prevent Air Pollution from Incinerators.

Section 219.2 Applicable Geographical Area

This Part shall apply to the entire State of New York.

Section 219.3 Definitions

a. Incinerator.

Any structure or furnace in which combustion takes place and type 0, 1, 2, 3, or 4 refuse is used as fuel, alone or in conjunction with fossil fuel.

b. Refuse

All waste material, including but not limited to, garbage, rubbish, incinerator residue, street cleanings, dead animals, and offal. Refuse is classified in accordance with Table 1, Appendix 2.

c. Smoke

An air contaminant consisting of small gas-borne particles emitted by an air contamination source in sufficient number to be observable.

Section 219.4 Emission Limits

a. All incinerators having a capacity of 2,000 lb/hr or less and built and installed after January 1, 1968, shall be designed, built, installed and operated to meet the emission limits of figure 1*.

b. No incinerator larger than 2,000 lb/hr capacity and built after January 1, 1970, shall be operated so as to produce particulate emissions which exceed the amount shown in figure 1*.

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*See Appendix 2, infra.

c. No incinerator having a capacity of 2,000 lb/hr or less and built or installed between April 1, 1962, and January 1, 1968, shall be operated so as to produce particulate emissions which exceed 0.5 lb/hr for every 100 lb/hr of refuse charged, unless a final order by the Commissioner provides otherwise.

d. Any incinerator having a capacity of 2,000 lb/hr or less and built or installed prior to April 1, 1962, shall either meet the requirements of 219.4(c) or shall be equipped with adequate control devices or redesigned and rebuilt so as to meet the requirements of 219.4(a) by January 1, 1969.

e. No incinerator larger than 2,000 lb/hr capacity and built between April 1, 1962, and January 1, 1970, shall be operated so as to produce particulate emissions which exceed 0.5 lb/hr for every 100 lb/hr of refuse charged, unless a final order by the Commissioner provides otherwise.

f. Any incinerator larger than 2,000 lb/hr capacity and built prior to April 1, 1962, shall either meet the requirements of 219.4(e) or shall be equipped with adequate control devices or redesigned and rebuilt so as to meet the requirements of 219.4(b) by January 1, 1970.

Section 219.5 Smoke Emissions

a. No incinerator, built or installed after January 26, 1967, regardless of size, shall emit smoke of an opacity denser than 20 percent or No. 1 of the Ringelmann Chart or equivalent, under normal operating conditions.

b. No incinerator built or installed prior to January 26, 1967, regardless of size, shall be operated so as to emit smoke of an opacity denser than 40 percent or No. 2 of the Ringelmann Chart or equivalent, under normal operating conditions.

Section 219.6 Tests

a. All incinerators larger than 2,000 lb/hr capacity shall be tested using isokinetic sampling techniques in accordance with test procedures acceptable to the Commissioner.

b. All incinerators built or installed after January 1, 1968, and having a capacity of 2,000 lb/hr or less shall be tested in accordance with special test procedures promulgated by the commissioner. Units which are representative models may be tested instead of an actual installation, in accordance with special test procedures promulgated by the commissioner.

Section 219.7 Abatement

a. Where the Commissioner has reason to believe that an incinerator installation is violating the emission standards of Section 219.4, he may have tests conducted. The owner shall provide, at his expense, sampling holes and pertinent allied facilities as needed, at the request of the Commissioner.

b. If such tests indicate a contravention of the emission limits, the Commissioner may requrre the installation of appropriate control equipment or he may seal the incinerator if such equipment is not installed within the time limit specified by the Commissioner.

c. The Commissioner may order the cleaning, repair, replacement or alteration of any equipment or control equipment which causes or is operated so as to cause a violation of this Part.

d. The Commissioner may order a change in the manner of operation of any incinerator which is operated so as to cause a violation of this Part.

APPENDIX 2
TABLE 1
Classification of Refuse

Type	Principal Components	Approximate Composition % by Weight	Approximate Moisture Content % by Weight	Approximate Incombustible Solids % by Weight	Approximate B.T.U. per Pound of Refuse
0	Rubbish consisting of highly combustible materials such as paper, wood and cardboard including up to 10% treated papers, rags, plastic or rubber from commercial and industrial sources	Rubbish 100%	10%	5%	8500
1	Some garbage but primarily rubbish consisting of combustible material such as paper, cardboard, wood, combustible floor sweepings from residential, commercial and industrial sources	Rubbish 80% Garbage 20%	25%	10%	6500
2	Rubbish and garbage from residential sources	Rubbish 50% Garbage 50%	50%	7%	4300
3	Some rubbish, but primarily garbage consisting of animal and vegetable matter from restaurants, hotels, markets, institutional and commercial sources	Garbage 65% Rubbish 35%	70%	5%	2500
4	Human and animal solid refuse consisting of carcasses and organs from hospitals laboratories, abattoirs, animal pounds and similar sources	100% animal and Human Tissue	85%	5%	1000
5	Gaseous, liquid or semi-liquid refuse from processes such as tar, paints, solvents and chemical sludge	Variable	Dependent on predominant components	Variable	Variable
6	Solid or semi-solid refuse from processes such as rubber, plastics, wood and sewage sludge.	Variable	Dependent on predominant components	Variable	Variable

APPENDIX 2

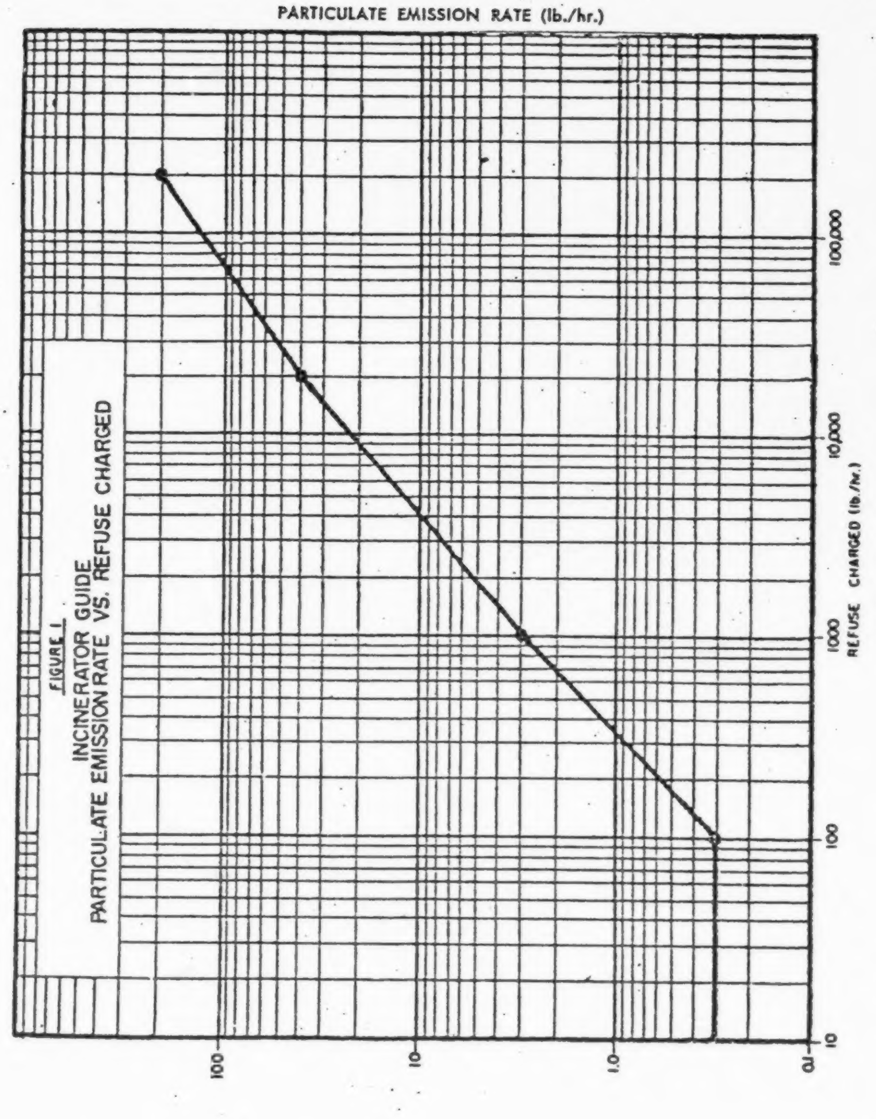

FIGURE 1

INCINERATOR GUIDE
PARTICULATE EMISSION RATE VS. REFUSE CHARGED

PART 220 - PARTICULATE EMISSIONS FROM CEMENT AND LIGHTWEIGHT AGGREGATE INDUSTRY PYROPROCESSES

Section 220.1 Applicability

a. This Part shall apply only to those pyroprocesses which were in operation at cement and lightweight aggregate manufacturing plants prior to the effective date of this Part and which, in or prior to such date, had control equipment enabling them to meet at least the emission standards prescribed in Table 1 of Section 220.3.

b. This Part shall not apply to those pyroprocesses which, on the effective date of this Part, meet the emission standards of Part 212.

c. The applicability of this Part shall terminate on January 1, 1981, and this Part shall not, thereafter, be of any force and effect with respect to any pyroprocess.

Section 220.2

a. Process Weight

The total weight of all materials introduced into a process which may cause air contaminant emissions to the outdoor atmosphere. Solid fuel used in a process is considered part of the process weight, but liquid and/or gaseous fuel, uncombined water and combustion air are not.

b. Process Weight per Hour

The total process weight divided by the number of hours in one complete operation from the beginning of a cycle to the completion thereof. For continuous processes, process weight should be determined on a daily basis.

c. Pyroprocesses

That part of cement and lightweight aggregate manufacturing related to the preheating, calcining, sintering, burning and cooling of clinker. Such processes include a means of chemically changing the material processed and do not include physical changes such as pearlite or shale expansion.

Section 220.3 Prohibitions

a. No person shall cause, permit, or allow the emission of particulates to the outer air from any pyroprocess which exceeds the limits specified in Table 1.

b. After January 1, 1971, pyroprocesses covered by this Part shall meet the emission standards of Part 187 in accordance with a time schedule as shall be established by the Commissioner, except that all pyroprocesses shall meet the emission standards of Part 212 not later than January 1, 1981.

c. The provisions of this section shall not be construed to permit the emission of air contaminants in quantities which alone or in combination with other sources would contravene the standards appliable under the provisions of Subchapter C of Chapter IV of Title 10 of the Official Compilation of Codes, Rules and Regulations of the State of New York.

TABLE I

Particulate Emissions From Cement and Lightweight Aggregate Industry Pyroprocesses

Process Weight (lb/hr)	Maximum Emission Weight (lb/hr)
50,000	94
100,000	134
150,000	164
200,000	190
250,000	212
300,000	233
350,000	252
400,000	268
450,000	284

Section 220.4 Testing, Sampling and Records

a. When testing for the applicability of and compliance with this Part is deemed necessary by the Commissioner, and the Commissioner requests such testing, the owner or operator must permit the Commissioner to have such testing done. This testing will be at the State's expense except as otherwise provided in Subdivision (b) of this Section.

b. Sampling holes and pertinent allied facilities as needed to conduct tests required in Subdivision (a) of this Section shall be requested inwriting by the Commissioner and shall then be provided at the expense of the owner or operator at such points as the Commissioner may request. If sampling holes, in addition to those used for testing dust collection equipment upon initial installation, are required, the cost of providing such additional holes shall be at the State's expense. The owner or operator shall provide, at his expense, a suitable power source and other suitable utilities necessary for the operation of sampling instruments. The Commissioner shall consult with the owner or operator with respect to the location of sampling holes.

c. Operation and maintenance records acceptable to the Commissioner shall be kept on file for a period of at least two years by the owner or operator of collection equipment on pyroprocesses. Such records shall be open to inspection by the Commissioner and shall include the dates and periods of time during which such collection equipment is inoperative or malfunctioning.

PART 221 - ASBESTOS-CONTAINING SURFACE COATING MATERIALS

Section 221.1 Applicability

This Part shall apply throughout the State of New York

Section 221.2 Prohibition

No person shall engage in or allow surface coating by the spraying of asbestos or asbestos-containing materials.

PART 222 - INCINERATORS - NEW YORK CITY, NASSAU AND WESTCHESTER COUNTIES

Section 222.1 Applicability

This Part shall apply only to the City of New York and the counties of Nassau and Westchester.

Section 222.2 Particulate Emissions

a. No person shall construct, install, use or cause to be used any incinerator the particulate emissions of which exceed the permissible particulate emission shown in Figure 1.

b. If two or more incinerators are connected to a single stack the total refuse charged to all incinerators connected to the same stack shall be the refuse charged for the purpose of determining the permissible particulate emission.

c. If a single incinerator is connected to two or more stacks the refuse charged to a single incinerator shall be the refuse charged for the purpose of determining the permissible particulate emission.

Section 222.3 Smoke Emissions

No person shall construct, install, use or cause to be used any incinerator which emits smoke the shade or appearance of which is equal to or greater than

a. Number 1 on the Ringelmann Chart, or equivalent standard acceptable to the Commissioner, for a period of three (3) or more minutes during any continuous sixty (60) minute period, or

b. Number 2 on the Ringelmann Chart, or equivalent standard acceptable to the Commissioner, for any time period.

Section 222.4 Odorous Emissions

a. No person shall construct, install, use or cause to be used any continuous fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400°F while the incinerator is in operation.

b. No person shall construct, install, use or cause to be used any batch fed incinerator unless the gas temperature at the furnace outlet is designed to be automatically maintained and is automatically maintained at not less than 1400°F during ninety percent of the burning period.

c. Incinerators with a capacity of 2,000 lbs/hr. or less of refuse charged shall be equipped with a sensing device indicating the gas temperature at the furnace outlet. Incinerators with a capacity of greater than 2,000 lbs/hr. of refuse charged shall be equipped with a sensing device and recorder to measure and record the temperature at the furnace outlet. A person who owns, operates, or maintains an incinerator with a capacity greater than 2,000 lbs/hr. of refuse charged shall retain recorder chart temperature records for a period of three years and shall make such charts available for inspection by the Commissioner or his representative during normal business hours.

d. Upon application, the Commissioner may modify the provisions of this Section where the applicant can show to the satisfation of the Commissioner that the odorous emission from his incinerator can be and is controlled with equivalent effectiveness.

Section 222.5 Representative Incinerator Models

In lieu of requiring a person who owns an incinerator, having a capacity of 2,000 lbs/hr. or less of refuse charged, to conduct a stack test and submit an acceptable emission test report, the Commissioner may accept emission test reports, submitted by such person or his authorized agent, of representative models which are geometrically similar and which demonstrate compliance with all sections of this Part. Testing of representative models shall be conducted in accordance with procedures established by the Commissioner.

Section 222.6 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which alone or in combination with emissions from other air contamination sources would contravene any established ambient air quality standard and/or cause air pollution.

FIGURE 1

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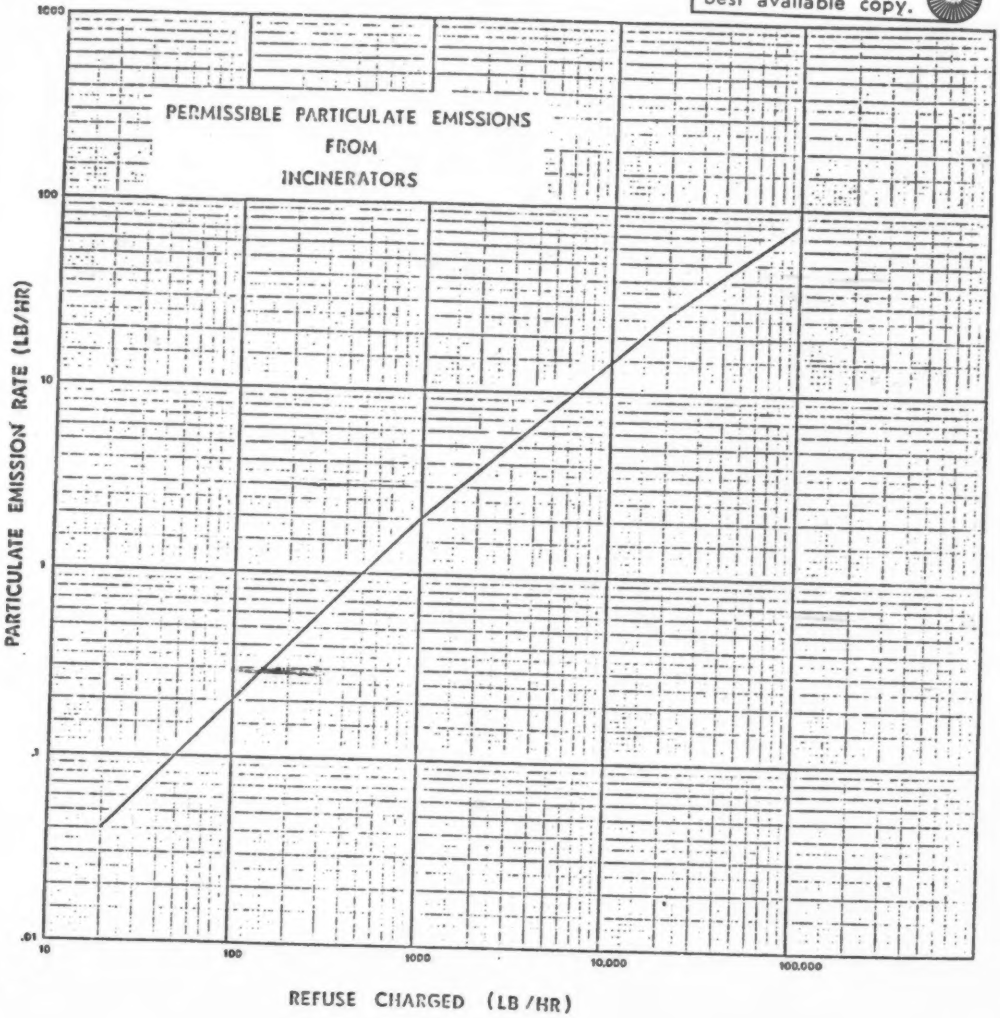

PART 223 - PETROLEUM REFINERIES

Section 223.1 Definitions

(a) Coke burn-off. The coke removed from the surface of the fluid catalytic cracking unit catalyst by combustion in the catalyst regenerator.

(b) Fuel gas. Any gas which is generated by a petroleum refinery process unit and which is combusted, including any gaseous mixture of natural gas and fuel gas which is combusted.

(c) Fuel gas combustion device. Any equipment, such as process heaters, boilers, and flares, used to combust fuel gas, but does not include fluid coking units and fluid catalytic cracking unit incinerator-waste heat boilers or facilities in which gases are combusted to produce sulfur or sulfuric acid.

(d) Hot wells. The collection container for condensed volatile organic compounds.

(e) Non-condensate vapors. Gases removed from process units by a vacuum producing system. As used in this rule, the term applies to the portion of volatile organic compounds which have not become liquid in condensers.

(f) Petroleum. The oil removed from the earth and the oils derived from tar, sands, shale and coal.

(g) Petroleum refinery. Any facility engaged in producing gasoline, kerosene, distillate fuel oils, residual fuel oils, lubricants or other products through distillation of petroleum or through redistillation, cracking or reforming of unfinished petroleum derivatives.

(h) Process gas. Any gas generated by a petroleum refinery process unit, except fuel gas and process upset gas as defined in this section.

(i) Process-unit turnarounds. The process of shut-down, inspection, repair, and start-up of reactors, fractionators, or other process units.

(j) Process upset gas. Any gas generated by a petroleum refinery process unit as a result of start-up, shut-down, upset or malfunction.

(k) Refinery process unit. Any segment of the petroleum refinery in which a specific processing operation is conducted.

(l) Vacuum producing systems. Equipment used to produce and maintain a vacuum in petroleum refinery process equipment as steam ejectors with contact condensers or surface condensers and mechanical vacuum pumps.

(m) Wastewater separators. Equipment used to separate oils and water from locations downstream of process drains.

Section 223.2 Particulate emissions

(a) Existing emission sources

(1) No person shall cause or allow emission of particulates to the outdoor atmosphere from any existing fluid catalytic cracking unit catalyst regenerator or fluid catalytic unit incinerator waste heat boiler in excess of 0.15 grains per cubic foot of exhaust gas, expressed at standard conditions on a dry gas basis. An existing emission source is one for which an application for a Permit to Construct was received, pursuant to 6 NYCRR 201, on or prior to June 11, 1973.

(b) New emission sources and modifications.

(1) No person shall cause or allow emission of particulates to the outdoor atmosphere from any fluid catalytic cracking unit catalyst regenerator or fluid catalytic cracking unit incinerator waste heat boiler or modification thereof, for which an application for a permit to construct is submitted, pursuant to 6 NYCRR 201, subsequent to June 11, 1973, in excess of 1.0 pounds per 1000 pounds of coke burn-off in the catalyst regenerator.

(2) In those instances in which auxiliary liquid and/or solid fuels are burned in the fluid catalytic cracking unit incinerator-waste heat boiler, particulates in excess of that permitted by Section 223.2(a) may be emitted to the outdoor atmosphere, except that the incremental rate of prticulate emissions shall not exceed 0.10 lb/million BTU heat input attributable to such liquid and/or solid fuel.

Section 223.3 Opacity of emissions

(a) No person subject to the provisions of this Part shall allow or cause emissions to the outdoor atmosphere from any fluid catalytic cracking unit catalyst regenerator gases having an opacity greater than 30 percent for a period of six or more minutes during any continuous 60 minute period, except uncombined water.

(b) Except as provided in Section 223.3(a) no person subject to the provisions of this Part shall allow or cause emissions to the outdoor atmosphere having an opacity of 20 percent or greater.

(c) All refinery flares shall be equipped with smokeless tips.

Section 223.4 Carbon monoxide emissions

(a) Existing emission sources. No person shall cause or allow emissions of carbon monoxide to the outdoor atmosphere from any existing fluid catalytic cracking unit catalyst regenerator in excess of the amount permitted by Table 2, Section 212.3(a) of 6 NYCRR 212.

(b) New emission sources and modifications. No person shall cause or allow emissions to the outdoor atmosphere of carbon monoxide from any new fluid catalytic cracking unit catalyst regenerator or modification thereof, for which an application for a Permit to Construct is submitted pursuant to 6 NYCRR 201 subsequent to June 11, 1973, in excess of 0.050 percent by volume of exhaust gases.

Section 223.5 Sulfur compound emissions

(a) Existing emission sources.

(1) No person shall burn in an existing fuel gas combustion device any gas which contains sulfur compounds measured as hydrogen sulfide in excess of 50 grains per 100 standard cubic feet of gas.

(2) No person shall cause or allow emissions of any sulfur compound emissions into the outdoor atmosphere from any existing Claus sulfur recovery unit in excess of the amount permitted by Table 2, Section 212.3(a) of 6 NYCRR 212.

(b) New emission sources and modifications

(1) No person shall burn in a fuel gas combustion device or modification thereof, for which an application for a Permit to Construct is received pursuant to 6 NYCRR 201 subsequent to June 11, 1973, any fuel gas which contains hydrogen sulfide in excess of 10 grains per 100 standard cubic feet of gas.

(2) A source owner burning a fuel gas containing sulfur compounds in excess of that allowed in Section 223.5(b)(1) may elect to treat the resulting gases in a manner which limits the release of sulfur compounds to the outdoor atmosphere if he can show to the satisfaction of the Commissioner that this results in the reduction of sulfur compound emissions as effectively as compliance with the requirements of Section 223.5 (b)1.

(3) No person shall emit any gases into the outdoor atmosphere from any Claus sulfur recovery unit for which an application for a Permit to Construct is received pursuant to 6 NYCRR 201 subsequent to October 4, 1976, containing in excess of:

(i) 0.025 percent by volume of sulfur dioxide at zero percent oxygen on a dry basis if emissions are controlled by an oxidation system or a reduction system followed by incineration.

(ii) 0.030 percent by volume of reduced sulfur compunds and 0.0010 percent by volume of hydrogen sulfide (calculated as SO2) at zero percent oxygen on a dry basis if emissions are controlled by a reduction system not followed by incineration.

Section 223.6 Volatile organic compound emissions.

(a) Any person subject to this section is required to submit to the Commissioner:

(1) On or before June 1, 1980 a proposed schedule which shows action and dates necessary to reach compliance with the provisions of this section.

(2) On June 1, 1982 or such later date as determined by an Order of the Commissioner such evidence as may be required by the Commissioner to show compliance with the provisions of this section.

(b) All non-condensable vapors from any vacuum producing system shall be piped to a firebox or incinerator, or compressed and added to refinery fuel gas. All hot wells associated with contact condensers shall be covered and the vapors incinerated.

(c) All forebays and separator sections which recover 200 gallons per day or more of volatile organic compounds shall be equipped with suitably designed covers. Any gauging and sampling devices in the covers shall be designed to prevent the escape of volatile organic compounds.

(d) Process unit turnaround - Processing units shall be depressurized down to 5 PSIG and the volatile organic compounds shall be vented to a vapor recovery system or to the fuel gas system, or flared.

(e) Alternate methods for controlling the emission of volatile organic compounds may be acceptable if the source owner can show to the satisfaction of the Commissioner that the methods utilized constitute reasonably available control technology.

Section 223.7 Exceptions.

A source owner may be excused from the provisions of Section 223.5 regarding the combustion of process upset gas in a flare, or the combustion in a flare of process gas or fuel gas which is released to the flare as a result of unit upset or malfunction or relief valve leakage provided the source owner complies with the requirements of Section 201.5(d).

Section 223.8 Monitoring of emissions and operations.

(a) Any source owner subject to the provisions of this Section shall install, calibrate, maintain and operate a continuous emission monitoring system as follows:

(1) A continuous emission monitoring system for the measurement of opacity of emissions from the fluid catalytic cracking unit catalyst regenerator.

(2) An instrument with a span of 1000 ppm for continuously monitoring and recording the concentration of carbon monoxide in emissions to the outer air from any new fluid catalytic cracking unit catalyst regenerators.

(3) A continuous monitoring system for the measurement of sulfur dioxide in the emissions to the outdoor atmosphere from the combustion of fuel gases except where a continuous monitoring system is used for monitoring and recording the concentration of hydrogen sulfide in the fuel gas at any fuel gas combustion device. Fuel gas combustion devices having a common source of fuel gas may be monitored in one location.

(4) An instrument for continuously monitoring and recording concentrations of SO2 in the emissions to the outdoor atmosphere from any new Claus sulfur recovery plant where compliance is achieved by incineration of the tail gases or an instrument for continuously monitoring and recording concentrations of hydrogen sulfide and reduced sulfur compounds in the emissions to the outdoor atmosphere from any Claus sulfur recovery plant if compliance is achieved through the use of a reduction control system not followed by incineration.

(b) The Average coke burn-off rate (thousands of kilogram/hr) and hours of operation for any new fluid catalytic cracking unit catalyst regenerator subject to Sections 223.2(b) and 223.4(b) shall be recorded daily.

(c) The source owner shall record daily the rates of combustion of liquid or solid fossil fuels (liters/hr or kilograms/hr) and the hours of operation during which liquid or solid fossil fuels are combusted in the incinerator-waste heat boiler for any fluid catalytic cracking unit catalyst regenerator is subject to Section 223.2(b) and which utilizes an incinerator-waste heat boiler to combust the exhaust gases from the catalyst regenerator.

(d) Any person subject to the provisions of Sections 223.8(b) and 223.8(c) shall maintain a file of the required measurements tabulated in a format acceptable to the Commissioner.

(e) Such records of measurements shall be retained for a minimum of three years, and shall be furnished to the Commissioner on his request.

(f) Any person subject to the provisions of Section 223.8(a) shall submit a written report at the request of the Commissioner of excess emissions of opacity and sulfur dioxide for each calendar quarter and the nature and cause of the excessive emissions if known. For opacity measurements, the excess emissions report shall consist of the magnitude, in percent opacity, of all six minute averages of opacity greater than the opacity standards in this Part for each hour of operation. For sulfur dioxide measurements, the excess emissions report shall include any six-hour period which the average emissions (arithmetic average of six continuous one-hour periods) of sulfur dioxide exceed the standard under Section 223.5(b)(2).

PART 225 - FUEL COMPOSITION AND USE-NEW YORK METROPOLITAN AREA

Section 225.1 Prohibitions

a. No person shall sell, offer for sale, purchase or use any fuel which contains sulfur in a quantity exceeding the following limitations:

1. Oil with 0.75 percent sulfur by weight or coal with 0.60 pounds of sulfur per million BTU gross heat content, where such oil or coal is for use in any stationary combustion installation with a total heat input in excess of 250 million BTU per hour, for which installation an application for a permit to construct was received by the Department or an application for a certificate of environmental compatibility and public need was received by the Public Service Commission after March 15, 1973, and which installation is not located in New York City, Nassau, Rockland or Westchester County. If two or more furnaces are connected to a common air cleaning device and/or common stack, the total heat input for such stationary combustion installation shall be the sum of the total heat input of all furnaces which are operated simultaneously and connected to the common air cleaning device and/or common stack.

2. Gaseous fuel with 50 grains of sulfur compounds (expressed as hydrogen sulfide) per 100 dry standard cubic feet of gas.

3. As otherwise specified in Table 1 below.

b. No person who changes from the use of fuel oil or gas to coal in his air contamination source shall purchase for or use in such source, coal with a sulfur content (in pounds per million BTU) which is in excess of the product of 0.55 times the maximum sulfur content for oil (in percent by weight) permitted by this Part for such source.

Section 225.2 Special Limitations Contingent Upon Air Quality

a. Special limitations promulgated pursuant to this section shall not apply to fossil fuel-fired steam generators which are subject to Title 40, Part 60, Subpart D of the Code of Federal Regulations (Standards of Performance for New Stationary Sources).

b. The Commissioner may promulgate special limitations that permit the sale, offering for sale, purchase and use of:

1. oil with a sulfur content not to exceed 3.0% by weight for air contamination sources which do not have a total heat input in excess of 250 million BTU per hour, or

2. solid fuel with a sulfur content not to exceed 2.8 pounds per million BTU gross heat content for air contamination sources which do not have a total heat input in excess of 100 million BTU per hour

in an area where all applicable ambient air quality standards for surfur dioxide are being met and where the Commissioner has determined that the use of such fuel in all air contamination sources in such area would not contribute to the contravention of such standards nor significantly degrade air quality. Such promulgation shall be filed with the Secretary of State.

c. The Commissioner may promulgate special limitations that permit the sale, offering for sale, purchase and use of:

1. oil with a sulfur content not to exceed 3.0% by weight in an air contamination source with a total heat input in excess of 250 million BTU per hour, or

2. solid fuel with a sulfur content not to exceed 2.8 pounds per million BTU gross heat content in an air contamination source with a total heat input in excess of 100 million BTU per hour

where the owner of such source shows to the Commissioner's satisfaction, by acceptable diffusion analysis, that such use would not contribute to the contravention of any applicable federal ambient air quality standard nor significantly degrade air quality. Such promulgation shall be filed with the Secretary of State. The Commissioner may require further conditions on such special limitations, including but not limited to the following:

1. Maintenance of a continuous monitoring network for sulfur compounds (expressed as sulfur dioxide) surrounding the source, which network is acceptable to the Commissioner.

2. Employment of a system for prompt switching to fuel with a sulfur content specified by the Commissioner when continuous monitoring indicates that State ambient air quality standards may, in the opinion of the Commissioner, otherwise be exceeded.†

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†See Non-Regulatory Revisions section for text of Special limitations which have been issued.

Section 225.3 Exceptions Contingent Upon Fuel Shortage

a. Upon application by an air contamination source owner or a fuel supplier, or upon his own initiative, the Commissioner may, by order, except persons from the provisions of this Part, for periods not exceeding one year, where it is shown to the Commissioner's satisfaction that there is an insufficient supply of conforming fuel

   1. Of the proper type required for use in a particular air contamination source, or

   2. Generally throughout an area of the State.

   Insufficiency of the supply of fuel must be certified by the Chairman of the Public Service Commission.

b. The Commissioner may, prior to certification of shortage by the Chairman of the Public Service Commission and prior to the public hearing provided by Section 225.4 of this part, by order, except from the provisions of this Part, for a period not exceeding 45 days.

   1. A person who submits an affidavit stating that there is an insufficient supply of conforming fuel of the proper type required for use in such person's air contamination source, or

   2. persons in a specified area of the State where the Commissioner has evidence that there is an insufficient supply of fuel generally throughout such area, when the Commissioner determines that a delay in issuing such exception would be detrimental to the public health or welfare. Where such exception is granted, the notice of public hearing provided by Section 225.4 shall be published within three days of the issuance of such exception, and such hearing shall be held in accordance with the provisions of of applicable federal regulations.†

Section 225.4 Public Hearings

a. The Commissioner will hold a public hearing, in accordance with the provisions of Section 51.4 of Title 40 of the Code of Federal Regulations, for each special limitation and exception pursuant to Sections 225.2 and 225.3, of this Part.

b. For hearings on exceptions, the applicant shall publish notice of such hearing, in such form as the Commissioner shall determine, in a newspaper of general circulation in the affected area for which such exception is sought and shall bear the cost of publication. The cost of the transcript of such hearing and the rental of space in which such hearing is conducted shall be paid for by the applicant.

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†Section 51.4 of Title 40 of the Code of Federal Regulations

Section 225.5 General Exceptions

a. Fuel mixtures:

1. Fuels with a sulfur content in excess of that permitted by this Part may be sold, offered for sale, purchased and used when it can be demonstrated, to the Commissioner's satisfaction, that the resulting maximum and three-month average emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmpsphere exceed the product of the total heat input multiplied by the allowable rate of sulfur dioxide emission(s) calculated according to the following equation:

$$S = \frac{2XA + 2YB + 2ZC}{X + Y + Z}$$

Where: S = Allowable sulfur dioxide emission (in pounds per million BTU).

X = Percent of total heat input from oil.

Y = Percent of total heat input from coal.

Z = Percent of total heat input from gaseous fuel.

A = Sulfur content of oil in percent by weight permitted by this Part multiplied by 0.55.

B = Sulfur content of coal in pounds of sulfur per million BTU permitted by this Part.

C = Sulfur content of gaseous fuel in grains per 100 dscf (expressed as hydrogen sulfide) permitted by this Part, multiplied by the ratio of 1.34/heating value of gaseous fuel (in BTU per cubic foot).

b. Equivalent emission rate. In the following cases, the Commissioner may, by order, except from the fuel sulfur content restrictions imposed by this Part a person establishing to the Commissioner's satisfaction that the fuel use thus permitted would not result in the emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmosphere at a rate greater than would result through the use of fuels otherwise mandated:

1. Where fuel would be used as a process constituent, or
2. Where approved contol equipment is installed, or
3. Where a sufficient portion of the sulfur in the fuel would be retained in the ash.

c. Experiments. Upon application, the Commissioner may, by order, permit the sale, offering for sale, purchase and use of fuel having a sulfur content in excess of the limits imposed by this Part, where such fuel would be used to demonstrate the performance of experimental equipment and/or process(es) for removal of sulfur compounds from stack emissions.

d. Coal and coke. Until June 30, 1975, in the City of New York and the Counties of Nassau, Rockland, Suffolk and Westchester, for those installations where coal or coke has been the regular fuel continuously since December 31, 1967, the Commissioner will permit the sale and the continued, but not increased, purchase and use of such fuel, upon application, irrespective of the sulfur content of such fuel.

Section 225.6 Emission and Fuel Monitoring

a. The provisions of this section shall apply to the owners of the following stationary combustion installations with a total heat input in excess of 250 million BTU per hour, except where gaseous fuel is the only fuel burned in such installation or where representative sampling and sulur analyses of fuel used in such installation are conducted daily in a manner approved by the Commissioner:

1. Any such installation when so requested by the Commissioner.
2. Installations for which an application for a permit to construct was received by the Department or an application for a certificate of environmental compatibility and public need was received by the Public Service Commission after March 15, 1973.

b. Such owner shall install at each stack, and operate in accordance with manufacturer's instructions, instruments approved by the Commissioner for continuously monitoring and recording sufur compound emissions (expressed as sulfur dioxide) from such installation at all times that the combustion installation is in service.

c. Such owner shall measure the rate of each fuel burned daily and shall determine, at least once per week, the gross heat content and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

d. Such owner shall record and maintain a file of such measurements and operating data as may be required by the Commissioner, and shall tabulate and summarize such measurements and operating data in a format acceptable to the Commissioner. Such persons shall retain records and summaries for at least three years and, upon request of the Commissioner, shall furnish such records and summaries.

Section 225.7 Reports, Sampling and Analysis

a. The Commisioner may require an owner of an air contamination source to retain for up to three years, and to submit to him, fuel analyses, information on the quantity of fuel received, burned or sold, and results of stack sampling, stack monitoring and other procedures to ensure compliance with the provisions of this Part.

b. No person selling oil or coal shall fail to maintain and retain for three calendar years, records containing the following information:

1. Fuel analyses and data on the quantities of all oil and coal received, and

2. The name of all purchasers, fuel analyses and data on the quantities of all oil and coal sold.

Such analyses shall contain, at a minimum, for:

1. Residual oil data on the sulfur content, ash content, specific gravity, and heating value.

2. Distillate oil data on the sulfur content, specific gravity, and heating value.

3. Coal data on the sulfur content, ash content, and heating value.

c. No person required to maintain and retain records pursuant to subdivision (b) shall fail to make such records available for inspection during normal business hours by the Commissioner or his representative, and no such person shall fail to furnish copies of such records to the Commissioner or his representative upon request.

d. Sampling, compositing and analysis of fuel samples shall be carried out in accordance with the most recent applicable ASTM standard methods or other methods acceptable to the Commissioner.

TABLE 1

MAXIMUM PERMITTED SULFUR CONTENT EXPRESSED IN PERCENT BY WEIGHT FOR OIL AND POUNDS PER MILLION BTU GROSS HEAT CONTENT FOR SOLID FUEL

	New York City		Nassau, Rockland & Westchester Counties		Suffolk County Towns of Babylon, Brookhaven, Huntington, Islip & Smithtown		ERIE & NIAGARA COUNTIES			Rest of State	
							City of Lackawanna and South Buffalo*	Remainder of Areas			
Effective Date	Oil	Solid Fuel	Oil	Solid Fuel	Oil	Solid Fuel	Oil	Oil	Solid Fuel	Oil	Solid Fuel
September 26, 1974	0.30 0.20 Distillate	0.20	0.37	0.20	1.0	0.6		2.2	2.8 Maximum 2.0 Average**	2.0	2.5 Maximum 1.9 Average**
October 1, 1974									1.7 Maximum 1.4 Average**		
November 17, 1976							1.1	2.0 Maximum 1.7 Average***			

*South Buffalo is defined as all that area located in the City of Buffalo which is south of the line commencing at the intersection of I-190 and Rt. 5 and proceeding east along I-190 to the city line.

**Averages shall be computed for each stationary air contamination source or emission source by dividing the total sulfur content by the total gross heat content of all solid fuel received during any consecutive three-month period.

***Averages shall be computed for each stationary air contamination source or emission source by dividing the sum of the sulfur content times the amount of each shipment of oil received by the total amount of all oil received during any consecutive three-month period.

Note: Certain installations rated at more than 250 million BTU per hour are restricted to use of 0.75 percent oil and 0.60 pounds per million BTU coal. See 225.1(a)(1).

PART 226 - FUEL COMPOSITION AND USE - STATIONARY AIR CONTAMINATION SOURCES

Section 226.1 Applicability.

This part shall apply to all areas of New York State except the New York City Metropolitan Area, consisting of the five counties within the City of New York, as well as the counties of Nassau, Suffolk, Rockland and Westchester.

Section 226.2 Prohibitions.

a. No person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source, fuel oil containing more than 1.65 pounds of sulfur per million BTU gross heat content.

b. No person shall sell, offer for sale, purchase for use or use in any stationary air contamination source, coal having a sulfur content exceeding 2.8 pounds per million BTU gross heat content, provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source shall not exceed 2.0 pounds per million BTU gross heat content.

c. After December 31, 1973, no person shall sell, offer for sale, purchase for use in or in any stationary air contamination source, fuel oil containing more than 1.1 pounds of sulfur per million BTU gross heat content.

d. After December 31, 1973, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source, coal containing more than 1.35 pounds of sulfur per million BTU gross heat content.

e. After December 31, 1973, and until October 1, 1975, when the prohibitions of Part 230 become applicable, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source located in Erie and Niagara Counties, fuel oil containing more than 1.2 pounds of sulfur per million BTU gross heat content.

f. After December 31, 1973, and until October 1, 1974, when the prohibitions of Part 230 become applicable, no person shall sell, offer for sale, purchase for use in or use in any stationary air contamination source located in Erie and Niagara Counties, coal having a sulfur content exceeding 2.8 pounds per million BTU gross heat content, provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source shall not exceed 2.0 pounds per million BTU gross heat content.

g. No person shall use in any stationary combustion installation rated at more than 250 million BTU per hour total heat input which was constructed or modified so as to increase the amount of sulfur compounds emitted to the outdoor atmosphere and for which a permit to construct has been submitted subsequent to the effective date of this Part, fuel oil having a sulfur content of more than 0.40 pounds of sulfur per million BTU gross heat content or coal having a sulfur content of more than 0.60 pounds of sulfur per million BTU gross heat content. If two or more furnaces are connected to a common air cleaning device and/or common stack, the total heat input for such stationary combustion installation shall be the sum of the total heat input of all furnaces operated simultaneously which are connected to the common air cleaning device and/or common stack.

h. No person shall change from fuel oil to coal in such a way that the amount of sulfur compounds emitted from his air contamination source to the outdoor atmosphere will be increased.

Section 226.3 Exceptions.

a. Fuels with a sulfur content in excess of that permitted by Section 226.2 may be sold, offered for sale, purchased and used when it can be demonstrated to the Commissioner's satisfaction that the resulting emission of sulfur compounds (expressed as sulfur dioxide) to the outdoor atmosphere does not exceed the rate(s) as calculated using the following equation:

$$S = \frac{2YA + 2ZB}{Y + Z}$$

Where: S = Allowable rate of sulfur dioxide emission (expressed in pounds per million BTU).

Y = Percent of total heat input from liquid fossil fuel.

Z = Percent of total heat input from solid fossil fuel.

A = Allowable sulfur content in pounds of sulfur per million BTU provided by Section 226.2 for oil.

B = Allowable sulfur content in pounds of sulfur per million BTU provided by Section 226.2 for coal.

b. Upon application, the Commissioner shall permit a person to sell, offer for sale, purchase for use or use fuels with a sulfur content in excess of that specified in 226.2 provided that such person demonstrates that by other means the emission rates of sulfur compounds (expressed as sulfur dioxide) will not be greater than would be obtained through the use of fuels otherwise mandated.

c. Upon application, the Commissioner may except from the provisions of Section 226.2 a person who can demonstrate to the Commissioner's satisfaction that there is an insufficient supply of fuel. In each case, the insufficiency of the supply of fuel must be certified by the Chairman of the Public Service Commission.

d. Upon application, the Commission may permit the sale, offer for sale, purchase and use of fuel having a sulfur content in excess of that specified in Section 226.2 provided such fuel is used to demonstrate the performance of experimental equipment and/or process for removal of sulfur compounds from stack emissions.

e. Except as required by Section 226.2(g), substitution of coal for fuel oil or gas is permissible only if the total sulfur content divided by the total gross heat content of all coal received during any consecutive three-month period does not exceed 1.1 pounds per million BTU gross heat content.

f. Coal having a sulfur content not exceeding 2.5 pounds per million BTU gross heat content may be sold, offered for sale, purchased for use in or used in any stationary air contamination source provided that the total sulfur content divided by the total gross heat content of all coal received during any three consecutive month period for use in any stationary air contamination source does not exceed 1.85 pounds per million BTU gross heat content.

Section 226.4 Reports, Sampling and Analysis.

a. Upon the request of the Commissioner, any person buying coal or fuel oil shall obtain and retain for three years, records of fuel analyses, monthly quantity of fuel received or burned, and results of stack sampling or stack monitoring, or other test procedures intended to verify compliance with this Part. Such person shall furnish the Commissioner with such records upon request.

b. Any person selling coal or fuel oil shall retain for one year a record of the identity of each buyer, quantity and sulfur content of such fuels, and upon the request of the Commissioner, shall furnish him with such records.

c. Sampling, compositing and analysis of coal and fuel oil shall be carried out in accordance with the most recent applicable ASTM standard methods or equivalent methods acceptable to the Commissioner.

d. Commencing June 30, 1973, and semi-annually thereafter all major fuel distributors must submit to the Commissioner a report on the progress in carrying out the provisions of this regulation.

Section 226.5 Emission and Fuel Monitoring.

a. Effective July 1, 1973, any person who owns a stationary combustion installation rated at more than 250 million BTU per hour input and which burns coal and/or fuel oil shall install at each stack and operate in accordance with manufacturer's instructions, and instrument approved by the Commissioner, for continuously monitoring and recording sulfur dioxide emissions.

b. Any person required under this section to monitor stack emissions shall measure the rate of each fuel burned daily and shall determine at least once per week the gross heating value and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

c. Any person subject to the provisions of this section shall record and maintain a file of all measurements required by this Section and shall tabulate and summarize such measurements in a format acceptable to the Commissioner. Such person shall retain records and summaries for at least three years and, upon the request of the Commissioner, shall furnish him with such records and summaries.

d. Upon application, the Commissioner may exempt in whole or in part from the stack monitoring requirements of this section any source owner who conducts fuel sampling daily in accordance with Section 226.4(c).

Note: Part 226 is disapproved as it applies to the Hudson Valley Intrastate Region, the Genesee-Fingerlakes and Southern Tier West Regions, and the Central New York Intrastate Region.

Part 226

SOLVENT METAL CLEANING PROCESSES

(Statutory authority: Environmental Conservation Law,
§§ 3-0301, 19-0301, 19-0303)
Effective August 23, 1979

Section 226.1 Definitions.

1. Cold Cleaning Degreasing. Batch process of solvent metal cleaning by spraying, brushing, flushing or immersion while maintaining the solvent below its boiling point. Wipe cleaning is not included in this definition.

2. Conveyorized Degreasing. Continuous process of solvent metal cleaning by operating with either cold or vaporized solvents.

3. Freeboard Height. Distance from the top of the vapor zone to the top of the degreaser tank. On cold cleaners, it is the distance from liquid level to lip of tank.

4. Freeboard Ratio. Freeboard height divided by the width of the degreaser tank.

5. Open Top Vapor Degreasing. Process of solvent metal cleaning by condensing hot solvent vapor on the colder metal parts.

6. Solvent Metal Cleaning. Process of cleaning soils from metal surfaces by using a volatile organic compound.

Section 226.2 General Requirements. No person shall conduct solvent metal cleaning unless:

(a) Solvent is stored in covered containers and waste solvent is transferred or disposed of in such manner that less than 20 percent of the waste solvent (by weight) can evaporate into the atmosphere.

(b) Equipment used in solvent metal cleaning is maintained to minimize leaks and fugitive emissions.

(c) Equipment used in solvent metal cleaning displays a conspicuous summary of proper operating procedures consistent with minimizing emissions of volatile organic compounds.

(d) Equipment covers are closed when the solvent metal cleaning unit is not in service.

(e) A record of solvent consumption shall be maintained for each year and made available to the Commissioner or his representative upon request.

Section 226.3 Equipment Specifications. Except where otherwise permitted by the Commissioner, the following devices are required by a source owner conducting solvent metal cleaning:

(1) Cold Cleaning Degreasing:

(a) A cover shall be provided which can be operated easily.

(b) The drainage facility shall be internal (under cover), if practical.

(c) A control system that limits VOC emissions to those achievable with equipment having a freeboard ratio greater than or equal to 0.7, or a water cover where the solvent is insoluble in and heavier than water, where the solvent being used has a vapor pressure greater than 33 mm Hg at 38°C (100°F) or where the solvent is heated above 50°C (120°F).

(2) Open Top Vapor Degreasing:

(a) The cover shall be operated easily without disturbing the vapor zone.

(b) Safety switches shall shut off sump heat if the condenser malfunctions and shall shut off the pump if vapor level drops excessively.

(c) One of the following shall be provided:

(1) A freeboard ratio that is greater than or equal to 0.75, and a powered or mechanically assisted cover if the top opening is greater than 10 square feet.

(2) A refrigerated chiller.

(3) Local exhaust ventilation and an adsorption or other system for collection of volatile organic compounds.

(4) An enclosed design whereby the cover is open only when the dry part is entering or exiting the degreaser.

(3) Conveyorized Degreasing:

(a) One of the following shall be provided:

(1) A refrigerated chiller.

(2) Local exhaust ventilation and an adsorption or other system for collection of volatile organic compounds.

(b) A drying tunnel, rotating basket or other device acceptable to the Commissioner shall be provided which prevents carry-out of liquid and vapor.

(c) Safety switches shall be provided which shut off the system when a malfunction would cause excessive emissions.

(d) Minimize openings at the entrance and exit to silhouette work and conveyor.

(e) Covers shall be provided to close the unit during downtime.

Section 226.4 Operating Requirements. Except where otherwise permitted by the Commissioner, the following operating practices are required by a source owner conducting solvent metal cleaning:

(1) Cold Cleaning Degreasing:

Clean parts shall be drained at least 15 seconds or until dripping ceases.

(2) Open Top Vapor Degreasing:

(a) Minimize solvent carryout by the following measures:

(1) Rack parts to allow full drainage.
(2) Move parts in and out of degreaser tank at less than 11 ft/min.
(3) Degrease the work load in the vapor zone at least 30 seconds or until condensation ceases.
(4) Tip out any pools of solvent before removal.
(5) Dry parts for at least 15 seconds or visually dry before removal.

(b) Degrease only nonporous or non-adsorbent material.

(c) Work loads shall not occupy more than half of degreaser tank open top area.

(d) Spray only below the vapor level.

(3) Conveyorized Degreasers:

(a) Exhaust ventilation rate shall not exceed 125 percent of the minimum ventilation rate required for the protection of workers in the vicinity of the degreaser.

(b) Minimize carry out emissions by:

(1) Proper racking for best drainage.
(2) Conveyor speed at less than 11 ft/min.

(c) Water shall not be visibly detectable in the solvent leaving in the water separator.

Section 226.5 Reasonably Available Control Technology.

Where it can be shown to the satisfaction of the Commissioner that a solvent metal cleaning process cannot be controlled to comply with sections 226.2, 226.3, and 226.4 of this Part for reasons of technological and economic feasibility, the Commissioner may accept a lesser degree of control upon submission of satisfactory evidence that the source owner has applied reasonably available control technology and has a plan to develop the technologies necessary to comply with the forementioned sections. Such evidence shall be submitted with the renewal application for a Certificate to Operate for an existing source under provisions of Part 201.

Section 226.6 Compliance

Any person subject to this Part is required:

(a) To submit to the Commissioner on June 1, 1980 a proposed schedul which shows the action steps and dates necessary to reach compliance with the provisions of this Part and

(b) On January 1, 1981, or such later date as determined by an order of the Commissioner, to be in compliance with the provisions of this Part.

Section 226.7 Exemptions.

(a) This Part shall not apply to:

(1) Conveyorized degreasers smaller than 22 ft^2 (2.0 m^2) of air/vapor interface.

(2) Open top vapor degreasers smaller than 11 ft^2 (1.0 m^2) of open area.

(3) Solvent cleaning processes utilizing 1,1,1 trichloroethane (methyl chloroform), trichlorotrifluoroethane (freon 113) and methylene chloride.

PART 227 - STATIONARY COMBUSTION INSTALLATIONS

Section 227.1 Bituminous Coal

No person shall construct, install or modify, or cause to be constructed, installed or modified, within New York State, any stationary combustion installation designed to burn bituminous coal, hand fired.

Section 227.2 Particulate Emissions

a. Except as required under Section 227.2b, no person shall cause, permit, or allow to be emitted into the outdoor atmosphere from any stationary combustion installation burning coal and/or wood, particulates in excess of the permissible emission rates specified in Table 1. The total heat input under normal operating conditions shall be used to determine the permissible emission rate. If two or more furnaces are connected to a common air cleaning device and/or stack, the total heat input of all furnaces connected to the device and/or stack shall be the heat input for the purpose of computing the permissible emission rate. If two or more furnaces having individual air cleaning devices are connected to a single stack, the permissible emission rate shall be the sum of the permissible emission rate from each furnace.

b. No person shall cause, permit, or allow a two hour average emission into the outdoor atmosphere of particulates in excess of 0.10 pound per million BTU heat input from:

    1. any oil fires stationary combustion installation, or

    2. any coal fires stationary combustion installation of more than 250 million BTU per hour total heat input for which an application for a Permit to Construct is submitted subsequent to the effective date of this Part.

c. Upon written application, the Commissioner may exempt a person from the provisions of this section, when in view of the properties of the emissions, isolated conditions, stack height and other factors, it is clearly demonstrated that the emission thus permitted will not cause a contravention of established ambient air quality standards.

Section 227.3 Smoke Emissions

a. No person shall construct, install, use or cause to be used a stationary combustion installation which emits smoke the shade or appearance of which is equal to or greater than

1. Number 1 on the Ringelmann Chart, or twenty (20) percent opacity, for a period of three (3) or more minutes during any continuous sixty (60) minute period, or

2. Number 2 on the Ringelmann Chart for forty (40) percent opacity, for any time period.

b. Startup and emergency emissions in excess of those allowed under Section 227.3(a) may be excepted by the Commissioner upon demonstration by the source owner that such excessive emissions were not preventable.

Section 227.4 Nitrogen Oxides

No person shall cause or allow to be emitted to the outdoor atmosphere from any stationary combustion installation of more than 250 million BTU per hour total heat input which was:

a. constructed or

b. modified so as to increase the amount of air contaminants emitted and for which a permit to construct has been submitted subsequent to the effective date of this Part, more than:

1. 0.70 pound per million BTU heat input for a maximum 2-hour average when solid fuel is burned.

2. 0.30 pound per million BTU heat input for a maximum 2-hour average when fuel oil is burned.

3. 0.20 pound per million BTU heat input for a maximum 2-hour average when gaseous fuel is burned.

Section 227.5 Stack Monitoring

a. Any person who owns a stationary combustion installation of more than 250 million BTU per hour total heat input shall install and operate in accordance with manufacturer's instructions, instruments, approved by the Commissioner, for continuously monitoring and recording smoke from such installations at all times that the combustion installation is in service. Where gas is the only fuel burned, monitoring and recording of smoke is not required.

b. Any person required to control nitrogen oxides in accordance with Section 227.4 shall install and operate in accordance with manufacturer's instructions, instruments approved by the Commissioner for continuously monitoring and recording nitrogen oxides from such installations at all times that the stationary combustion installation is in service.

c. Any person required under this section to monitor stack emission shall determine the average rate of each fuel burned daily and shall determine at least once per week, the gross heating value and ash content of each fuel burned. In the case of combustion installations producing electricity for sale, the average electrical output and the minimum and maximum hourly generation rate shall also be measured.

d. Any person subject to the provisions of this section shall record and maintain a file of such measurements and operating data, as may be required by the Commissioner, and shall tabulate and summarize such measurements and operating data in a format acceptable to the Commissioner. Such person shall retain records and summaries for at least three years, and upon request of the Commissioner shall furnish such records and summaries.

Section 227.6 Fuel Mixtures

When two or more different fuels are burned simultaneously in a single furnace of a stationary combustion installation, the permissible emission rate shall be the sum of the permissible emission rate for each fuel multiplied by BTU input derived from that fuel.

Section 227.7 Corrective Action

a. Any person found to have violated any provision of this Part shall not cause, permit or allow operation of the stationary combustion installation involved in the violation unless

    1. it is equipped with approved emission control equipment or

    2. it is rehabilitated or upgraded in an approved manner or

    3. the fuel is changed to an acceptable type.

b. The Commissioner may seal such stationary combustion installation so as to prevent any operation if the conditions of subdivision 1, 2 and 3 of paragraph 227.7a are not met within the time provided by the order of final determination issued in the case of the violation.

c. No person shall cause, permit or allow operation of any stationary combustion installation sealed by the Commissioner in accordance with this section.

d. No person except the Commissioner or his representative shall remove, tamper with or destroy any seal affixed to any stationary combustion installation in accordance with this section.

Section 227.8 General

a. Emission Data

Any person who owns or operates a stationary combustion installation described in Section 227.2 and 227.4 shall provide pertinent data concerning emission, when so requested by the Commissioner.

b. Test Methods

Sampling, compositing, and analysis of fuel samples shall be carried out in accordance with the most recent ASTM standard methods or equivalent methods acceptable to the Commissioner.

Section 227.9 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which, alone or in combination with emissions from other sources, would contravene any established standard for the quality of the ambient air, or would cause air pollution.

Section 227.10 Definitions

a. "Opacity" means the degree to which emissions other than condensed water reduce the transmission of light and obscrue the view of an object in the background.

TABLE I

Permissible Emission Rates for Stationary Combustion Installations Burning Solid Fuel

Total Heat Input (million BTU/hr)	Permissible Emission Rate** (lb/million BTU)
*	
1 to 10	0.600
20	0.550
30	0.500
40	0.450
50	0.440
60	0.420
70	0.400
80	0.390
90	0.380
100	0.370
200	0.320
300	0.290
400	0.275
500	0.262
600	0.252
700	0.242
800	0.236
900	0.230
1,000	0.225
2,000	0.193
3,000	0.177
4,000	0.166
5,000	0.158
6,000	0.152
7,000	0.147
8,000	0.142
9,000	0.139
10,000	0.136

*(a) Installations having a total heat input less than one million BTU/hr are exempted.

**(b) Total heat input between 10-10,000 million BTU/hr:
use $E = .02/p^{219}$ to determine the permissible emission rate where
E = permissible emission rate in lb/million BTU
P = total heat input in million BTU/hr

(c) Individual combustion installations with a total heat input equal to or less than 300 million BTU/hr and in operating prior to June 1, 1972, may exceed the values in Table I provided they meet the following criteria:

1. Spreader stokers - Permissible emission rate shall not exceed 0.60 lb/million BTU input.

2.

Total Heat Input (million BTU/hr)	Permissible Emission Rate (lb/million BTU)***
1 - 100	0.60
200	0.45
300	0.30

***Calculate intermediate values by linear interpretation.

PART 228 - SURFACE COATING PROCESSES

Section 228.1 Applicability and Compliance

(a) Any owner or operator of a process involving a coating line described in Table 1, which is located in a non-attainment area for ozone (See Part 200 of this Title for definition of non-attainment area and for definitions of other terms used in this Part.) and for which the annual potential emissions of volatile organic compounds equal or exceed 100 tons per year, shall:

(1) submit to the Commissioner on or before January 1, 1980 a proposed schedule which includes the action steps necessary to achieve compliance with this Part and the dates by which each action step will be completed, and

(2) on or before July 1, 1980, or such later date as determined by an order of the Commissioner, be in compliance with the provisions of this Part.

(b) Any owner or operator of a process involving a coating line described in Table 1, which is located in the New York City Metropolitan Area and for which the annual potential emissions of volatile organic compounds are less than 100 tons per year, shall:

(1) submit to the Commissioner on or before January 1, 1981, a proposed schedule which includes the action steps necessary to achieve compliance with this Part and the dates by which each action step will be completed, and

(2) on or before January 1, 1982, or such later date as determined by an order of the Commissioner, be in compliance with the provisions of this Part.

(c) Any owner or operator of a process involving a coating line described in Table 1 which is located in an attainment area for ozone and for which an application for a permit to construct is received by the Commissioner after the effective date of this Part shall comply with all provisions of this Part.

(d) Any owner or operator of a surface coating process, which is not regulted under this Part, shall comply with all other applicable Parts of this subchapter.

Section 228.2 Volatile organic compound emissions

(a) No person shall cause or allow emissions of volatile organic compounds to the outdoor atmosphere that violate the requirements specified in Table 1 of this Part.

(b) (1) The permissible emission prescribed in Table 1 may be met by using reformulation (less organic solvent per gallon of coating) or by use of control equipment (e.g., afterburner, absorber) or by a combination of both.

(2) Any afterburner used as control equipment shall be energy efficient and shall be designed and operated to have 80 percent overall destruction of volatile organic compounds. This assumes 90% of the VOC emitted are captured and delivered to the afterburner which converts 90% of the VOC to carbon dioxide and water vapor. The control equipment shall operate on minimal auxiliary fuel and provide for maximum heat recovery.

(c) An owner or operator may develop a facilty-wide emission reduction plan instead of having each coating line comply with the permissible emissions prescribed in Table 1 provided:

(1) The source owner demonstrates, by means of approved material balance or acceptable emission test, that sufficient reductions in volatile organic compound emissions may be obtained by controlling other existing emission sources within the facility to the extent necessary to compensate for all excess emissions which result from one or more coating lines not achieving the prescribed emission limitation. Such demonstration which shall be described in writing, and which shall be submitted with the applications for a Permit to Construct and/or Certificate to Operate pursuant to Part 201 shall include:

(i) A description of the coating line or lines which will not comply with the permissible emissions,

(ii) Pounds per day of volatile organic compounds emitted, which are in excess of permissible emissions for each coating line,

(iii) A description of each emission source with the control equipment, if any, for those emission sources within the plant where emissions will be decreased to compensate for excess emissions from each coating line,

(iv) Pounds per day of volatile organic compounds, for each emission source before and after the installation of any control equipment, or any physical or operational changes at the facility to reduce emissions and the date on which such reductions will be achieved, and

(v) A description of the procedures and methods used to determine the emissions of volatile organic compounds.

(2) The facilty-wide emission reduction plan should not include decreases in emissions resulting from requirements of other Parts of this Chapter. The facilty-wide emission reduction plan may include decreases in emissions accomplished through installation or improvement of control equipment or through physical or operational changes at the facility such as

increased transfer efficiencies.

(3) The implementation of a facility-wide emission reduction plan instead of compliance with the emissions limitation prescribed in subdivision (a) of this section must be approved by the Commissioner; upon approval, any emissions in excess of those established for each emission source under the plan shall be a violation of this sub-chapter.

(d) Where it can be shown to the satisfaction of the Commissioner that a surface coating line cannot be controlled to comply with subdivisions (a), (b) or (c) of this section for reasons of technological and economic feasibility, the Commissiner may accept a lesser degree of control upon the submission of satisfactory evidence that the source owner has applied reasonably available control technology and has a plan to develop the technologies necessary to comply with the fore-mentioned subdivisions. Such evidence shall be submitted with the application for renewal of a Certificate to Operate for an existing source under provisions of Part 201.

Section 228.3 Opacity

No person shall cause or allow emissions to the outdoor atmosphere having an average opacity of 20% or greater from any emission source subject to this Part.

Section 228.4 Reports, sampling and analysis

(a) The owner or operator of any emission source subject to this Part shall, upon request, provide a sample and/or purchase/production records of the coating material to the Commissioner's representative, and/or shall provide him with the results of any analysis or other procedure used for establishing compliance with this Part.

(b) Acceptable analytical methods for the determination of the density and volatile content of surface coatings are:

(1) ASTM D1644 (Method A only)

(2) ASTM D1475

(3) ASTM D2369

(4) Federal standard 141a Method 4082.1 (Karl Fischer Titration Method)

Where the above methods are not applicable, alternate analytical methods for surface coating may be acceptable subject to the approval of the Commissioner.

Section 228.5 Exemptions

(a) This Part shall no apply to:

(1) any facility whih uses less than 30 gallons of coating per day and which is located in a non-attainment area for ozone except the New York City Metropolitan Area.

(2) a facility which uses less than 5.0 gallons of coating per day and which is located in the New York City Metropolitan Area.

(3) research and development processes involving surface coating which produce a product for study rather than eventual sale.

(4) the following volatile organic compounds:

(i) Methane
(ii) Ethane
(iii) 1,1,1 Trichloroethane (Methyl Chloroform)
(iv) Trichlorotrifluoroethane (Freon 113)
(v) Methylene Chloride

Table 1

Process, Emission Source, and Description of Products		Maximum Permitted Pounds of Organic Solvent (Minus Water) Per Gal, of Coating at Application
Large Appliance Coating Lines	- Residential and commercial washers, dryers, ranges, refrigerators, freezers, water heaters, dish washers, trash compactors, air conditioners, etc.	2.8
Magnet Wire Insulation Coating Lines	- Enameling or varnish of aluminum or copper wire for use in electrical machinery to create an electro-magnetic field	1.7
Metal Furniture Coating Lines	- Metal parts used in household, business, and institutional furniture-tables, chairs, waste baskets, beds, lamps, shelves, room dividers, etc.	3.0
Metal Can Coating Lines	- Sheet basecoat-exterior and interior over-varnish	2.8
	Two-piece can exterior (basecoat and over-varnish)	
	Two and three-piece can interior body spray	4.2
	Two piece can exterior end (spray or roll coat)	
	Three-piece can side-seam spray	5.5
	End sealing compound	3.7
Fabric Coating Lines	- Fabric coatings such as rubber used for rainwear, tents, industrial gaskets, etc.	2.9

Vinyl Coating Lines	- Printing, decorations, or protecting coats over vinyl coated fabric or vinyl sheets	3.8
Paper Coating Lines	- Paper, pressure sensitive tape regardless of substance (including paper, fabric, or plastic film) and related web coating processes on plastic film such as typewriter ribbons, photographic film and magnetic tape. Also metal foil gift wrap and packaging.	2.9
Automobile Assembly Coating Lines	- Automobile and light duty trucks, body, chassis, small parts, wheels, sound deadeners, etc. - not adhesives	
	Prime coat	1.9
	Other coats (to coat)	2.8
	Repair coat	4.8
Coil Coating Lines	- Flat metal sheet from a coil or roll which is coated and later used for cans, appliances, roof decks, siding, cars, gutters, etc.	2.6

PART 229 PETROLEUM LIQUIDS, STORAGE AND TRANSFER

Section 229.1 Applicability

(a) This Part will apply in all areas designated pursuant to Section 107(d) of the Federal Clean Air Act as nonattainment for ozone (See Part 200 of this Subchapter for definition of nonattainment area and for definitions of terms used in this Part other than those included in section 229.2.) For:

(1) the storage of petroleum liquids in fixed roof tanks;

(2) the transfer of gasoline at gasoline bulk plants; and

(3) gasoline loading terminals.

(b) This Part will apply in the New York City Metropolitan Area for the transfer of gasoline into underground storage tanks located at gasoline filling stations.

Section 229.2 Definitions

(a) Barrel. A unit of measurement equivalent to 42 gallons.

(b) Equivalent (alternate) control. The use of alternate operational and/or equipment controls for the reduction of gasoline vapor emissions, that have been approved by the commissioner, such that the aggregate emissions of gasoline vapor from the facility would not exceed those resulting from the application of defined reasonably available control technology.

(c) Gasoline. Any petroleum distillate having a Reid Vapor Pressure of 4-12 psi (28-83 kilo pascals) used as a motor fuel.

(d) Gasoline bulk plant. A gasoline storage and/or distribution facility with average workday throughput of 40,000 gallons of gasoline or less.

(e) Gasoline filling station. Any site where gasoline is dispensed into vehicle fuel tanks from any stationary storage container(s) greater than 250 gallons.

(f) Gasoline loading terminal. A gasoline storage and/or distribution facility with average work day throughputs of greater than 40,000 gallons of gasoline or with potential emissions of 100 tons or greater per year.

(g) Gasoline transport vehicle. Any tank truck, trailer or railroad tank car used for the transportation of gasoline.

(h) Internal floating roof. A cover or roof in a fixed roof tank which rests upon or is floated upon the petroleum liquids being contained and is equipped with a closure seal or seals between the roof edge and tank shell.

(i) Petroleum liquid. Any crude oil, condensate, and any finished or intermediate products manufactured or extracted in a petroleum refinery whose true vapor pressure is between 1.5 and 12 psia at 70 degrees F (10.5 - 83 kilo pascals) except those volatile organic compounds having toxic properties.

(j) Submerged filling. The use of any fill pipe or drop tube, the discharge opening of which is entirely submerged when the liquid is six inches above the bottom of the container. When applied to a container loaded from the side, it is defined as any fill pipe the discharge of which is entirely submerged when the liquid level is 18 inches or twice the diameter of the fill pipe, whichever is greater, above the bottom of the container.

(k) Throughput - annual. The amount of petroleum liquid transferred or dispensed into or from a defined source or facility during a work year.

(l) Throughput - daily. The average daily amount of petroluem liquid transferred or dispensed into or from a defined sorce, based upon annual throughput divided by the number of days in a work year or the actual number of days of operation.

(m) True vapor pressure. The equilibrium partial pressure exerted by a petroleum liquid as determined inaccordance with methods described in American Petroleum Institute Bulletin 2517, Evaporation Loss from Floating Roof Tanks, 1962.

(n) Vapor collection system - stage I. A vapor transport system which uses direct displacement by the petroleum liquid loaded to force vapors from the tank into a vapor-tight holding system or into a vapor control system.

(o) Vapor control system. A system that prevents emissions to the outdoor atmosphere from exceeding 4.7 grains per gallon (80 grams/1000 liters) of petroleum liquid loaded when equipped with vapor collection and recovery, oxidation or approved equivalent control systems.

(p) Work year. Three hundred (300) days in a calendar year from the operation of fixed roof tanks, gasoline bulk plants and gasoline loading terminals, and three hundred and sixty five (365) days for the operation of a gasoline filling station.

Section 229.3 Prohibitions and requirements

(a) Storage of petroleum liquids in fixed roof tanks.

(1) No person shall place, store or hold petroleum liquids in any stationary tank, reservoir or any other container of fixed roof design with 40,000 gallons or greater storage capacity in the New York City Metropolitan Areas, unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressure at all times to prevent emissions of vapor to the outdoor atmosphere, unless:

(i) the source has been retrofitted with an internal floating roof; or

(ii) the source has been retrofitted with approved equivalent controls; and

(iii) the vapor collection and vapor control systems are maintained and operated in such a way as to ensure the integrity and efficiency of the system.

(2) No person shall place, store or hold petroleum liquids in any stationary tank reservoir, or any other container of fixed roof design with 40,000 gallons or greater storage capacity in nonattainment areas for ozone except the New York City Metropolitan Area, located at a facility with annual potential emissions of 100 tons or greater, unless such tank, reservoir or other container is a pressure tank capable of maintaining working pressure at all times to prevent vapor emissions to the outdoor atmosphere, unless:

(i) the source has been retrofitted with an internal floating roof; or

(ii) the source has been retrofitted with approved equivalent controls; and

(iii) the vapor collection and vapor control systems are maintained and operated in such a way as to ensure the integrity and efficiency of the system.

(b) Gasoline bulk plants

(1) No person shall load gasoline into any gasoline transport vehicle from any gasoline bulk plant in any nonattainment area for ozone, unless such gasoline bulk plant provides for submerged filling of gasoline transport vehicles.

(2) No person shall load gasoline into any gasoline transport vehicle if such facility dispenses gasoline to any vehicle that delivers such gasoline to a gasoline filling station storage tank that has been retrofitted with a stage I vapor control sytem, unless the gasoline bulk plant provides for:

(i) the submerged filling of gasoline transport vehicles;

(ii) the proper installation of a vapor collection system to control gasoline vapor emissions displaced by gasoline delivery to the storage tanks;

(iii) the proper installation of a vapor collection system to control gasoline vapor emissions displaced by filling account gasoline transport vehicles;

(iv) the pressure vacuum relief valves and hatch covers for storage tanks and account vehicles, and associated vapor and liquid lines used during dispensing operations, do not leak and that the pressure relief valves on storage tanks and account vehicles are set to release at no less than 0.7 psi or the highest possible pressure that is in accordance with State or local fire codes or the National Fire Prevention Association guidelines; and

(v) the vapor collection system is maintained and operated in such a way as to ensure the efficiency and integrity of the system.

(3) Vapor collection systems required at gasoline bulk plants serving stage I gasoline filling stations consist of:

(i) a vapor space connection on the stationary storage tank equipped with fittings which are vapor-tight and will automatically and immediately close upon disconnection so as to prevent release of gasoline vapor to the best extent possible;

(ii) a connecting pipe or hose equipped with fittings which are vapor-tight and will automatically and immediately close upon disconnection so as to prevent release of volatile organic materials to the best extent possible when loading is through means other than hatches. If loading is accomplished through hatches, then it is equipped with a loading arm with a vapor collection system adaptor with a device to force a vapor-tight seal between the adaptor and the hatch, with a means of preventing drainage of volatile organic liquid from the loading device when it is removed from the hatch or is designed to accomplish complete drainage before such removal;

(iii) a vapor space connection on the gasoline transport vehicle, other than hatch loading, equipped with fittings that are vapor-tight and will automatically and immediately close upon disconnection to prevent the release of gasoline vapor to the best extent possible;

(iv) a device connecting the gasoline transport vehicle and the dispensing equipment designed to interrupt the flow of gasoline to prevent overfilling and spillage;

(v) a device to prevent the flow of gasoline into gasoline transport vehicles unless both the fuel product line and vapor collection system are connected in such a manner as to prevent liquid product leaks or vapor loss; and

(vi) the design and connections of such devices specified above that are used to control gasoline vapor emissions while loading gasoline transport vehicles will either be of standard specifications to allow compatibility between the various gasoline transport vehicles loaded at different gasoline bulk plants, or adapters will be provided and used. Such adapters will be designed to ensure the vapor-tight integrity of the system. The owners and/or operators of the gasoline bulk plant will be responsible for ensuring the proper connection and use of such adapter devices before dispensing of gasoline occurs.

(c) Gasoline loading terminals.

(1) No person shall load gasoline into any gasoline transport vehicle from any gasoline loading terminal or any gasoline bulk plant with daily throughputs greater than 20,000 gal/day located in the New York City Metropolitan Area, unless the facility is equipped with a properly installed gasoline vapor collection and vapor control system that consists of the following:

(i) a system which processes and recovers vapors and gases; or

(ii) a vapor collection and vapor control system which directs all vapors to a fuel gas system; or

(iii) an approved equivalent control system; and

(iv) for top loading through a hatch, a top loading arm with a vapor collection system adapter with a device to force a vapor-tight seal between the adapter and the hatch, with a means of preventing drainage of volatile organic liquids from the loading device when it is removed from the hatch of any gasoline transport vehicle, or to accomplish complete drainage before such removal; or

(v) for bottom loading a connecting pipe or hose equipped with fittings which are vapor-tight and will automatically and immediately close upon disconnection to prevent release of vapors to the best extent possible; and

(vi) a device will be installed connecting the gasoline transport vehicle and the dispensing equipment designed to interrupt the flow of gasoline so as to prevent overfilling and spillage; and

(vii) a device will be installed so as to prevent the flow of gasoline into the gasoline transport vehicle unless both the fuel product line and vapor collection system are connected in such a manner as to prevent liquid product leaks or vapor loss.

(2) The design and connections of such devices specified in this subdivision, that are used to control gasoline vapor emissions while loading gasoline transport vehicles, will either be of standard specifications to allow compatibility between the various gasoline transport vehicles loaded at different gasoline loading terminals, or adaptors will be provided and used. Such adaptors will be designed to ensure the vapor-tight integrity of the system. The owners and/or operators of the terminal will be responsible for ensuring and proper connection and use of such adaptor devices before dispensing of gasoline occurs.

(3) No person shall load gasoline into any gasoline transport vehicle from any gasoline loading terminal with annual potential emissions of 100 tons or greater located in a nonattainment area for ozone, with the exception of the New York City Metropolitan Area, unless such facility complies with the requirements of paragraphs (c)(1) and (2) of this section.

(d) Gasoline filling stations

(1) No person shall transfer or permit the transfer of gasoline into underground storage tanks at gasoline filling stations, located in the New York City Metropolitan Area, whose annual throughput exceeds 120,000 gallons, unless:

(i) The underground storage tank is equipped with:

(a) a stage I vapor collection system consisting of a vapor-tight return line from the storage tank, or its vent, to the gasoline transport vehicle, and a system that will ensure that the vapor line is connected before gasoline can be transferred into the tank;

(b) an onsite vapor control system properly installed that is connected to a vapor collection system that captures gasoline vapors displaced while loading; or

(c) an approved equivalent control system;

(ii) The vapor-laden gasoline transport vehicle shall be subject to the following conditions:

(a) the gasoline transport vehicle must be designed and maintained to be vapor tight at all times, except while visually inspecting liquid levels in hatch loading vehicles; and

(b) a gasoline transport vehicle that is vapor-laden from dispensing gasoline at a gasoline filling station storage tank equipped with a stage I vapor collection system may be refilled only at:

(1) gasoline bulk plants complying with paragraphs (b)(2) and (3) of this section;

(2) gasoline loading terminals complying with subdivision (c) of this section.

(2) Stage I vapor collection devices and submerged fill will not be required for storage tanks of less than 2,000 gallons capacity located at gasoline filling stations in any of the five counties of New York City which were installed prior to January 1, 1970.

(3) Stationary storage tanks at gasoline filling stations located in the New York City Metropolitan Area, with the exception of the five counties of New York City, that do not have a requirement for fitting with either a gasoline vapor collection or control device shall be equipped for submerged filling.

(4) Each owner of a gasoline storage tank and/or operator of a gasoline transport vehicle that is subject to the requirements for stage I controls shall:

(i) purchase and install all necessary control systems, and make any modifications necessary to comply with the requirements;

(ii) provide adequate training and written instructions to the operator of the affected gasoline filling station and the gasoline transport vehicle; and

(iii) replace, repair or modify any worn or malfunctioning component or element of design to ensure the vapor-tight integrity and efficiency of the required vapor collection and/or vapor control systems.

(5) After January 1, 1979, stationary storage tanks in the New York City Metropolitan Area of 250 gallons capacity or more, newly installed at a gasoline filling station, shall have stage I control devices.

(6) After January 1, 1979, any modifications, other than shutting down, made to a stationary storage tank of 250 gallons capacity or more, located at an existing gasoline filling station in the New York City Metropolitan Area, shall initiate stage I requirements.

(7) Gasoline filling station in the New York City Metropolitan Area used exclusively for the fueling of implementing of husbandry, as defined in Title I, section 125 of the New York State Vehicle and Traffic Law, are exempt from stage I requirements, but such containers must be equipped with submerged fill pipes.

Section 229.4 Compliance schedules

(a) All owners of fixed roof tanks, gasoline bulk plants, gasoline loading terminals and gasoline filling stations that are required to comply with the provisions of this Part shall submit to the commissioner, no later than July 1, 1980, an "Application for Permit to Construct or Certificate to Operate" utilizing 1978 as the base year.

(b) No later than January 1, 1981, any person subject to this Part shall submit to the commissioner, a proposed schedule which shows the action steps and dates necessary to reach compliance with the provisions of this Part.

(c) No later than the final compliance date indicated below, the owner or operator shall be in full compliance with all requirements. Owners or operators of affected sources subject to this Part shall comply with the requirements of this Part no later than:

(1) October 1, 1982 for fixed roof tanks;
(2) July 1, 1982 for gasoline bulk tanks;
(3) July 1, 1982 for gasoline loading terminals; and
(4) October 1, 1982 for gasoline filling stations.

Section 229.5 Testing

The owner or operator of any emission source subject to this Part shall, at his own expense, and upon request by the commissioner, demonstrate compliance with all provisions of this Part. Such testing will be done in accordance with the provisions of Part 202 of this Subchapter. Emissions Testing, Sampling and Analytical Determinations.

Section 229.6 Compliance

Any owner or operator of a fixed roof tank storing petroleum liquids, bulk plant, gasoline loading terminal or gasoline filling station, which is not regulated under this part, shall comply with all other applicable Parts of this Subchapter.

Section 229.7 Exceptions

Where it can be shown to the satisfaction of the commissioner that fixed roof tanks, gasoline bulk plants, gasoline loading terminals, and gasoline filling stations cannot comply with the requirements of this Part for reasons of technological and economic feasibility, the commissioner may, upon submission of satisfactory evidence except the source owner from the requirements of this Part and accept a lesser degree of control.

PART 230 - FUEL COMPOSITION AND USE - NIAGARA FRONTIER

Section 230.1 Applicability

This Part shall apply only to Erie and Niagara counties.

Section 230.2 Prohibitions

a. After October 1, 1974, no person shall sell, offer for sale, purchase for use in, or use in any stationary combustion installation, process or incinerator coal having a sulfur content exceeding 1.7 pounds per million BTU gross heat content provided that the weighted average for all coal received by a purchaser during a three month period does not exceed 1.4 pounds sulfur per million BTU gross heat content.

b. After October 1, 1974, no person shall sell, offer for sale, purchase for use in, or use in any stationary combustion installation, process or incinerator fuel oil having a sulfur content exceeding 0.60 pounds per million BTU gross heat content.

Section 230.3 Exceptions

a. Upon application, the Commisioner may permit the sale, offer for sale, purchase or use of fuels with sulfur content in excess of that specified in Section 230.2, where approved control equipment is installed which limits the emission rate of sulfur compounds (expressed as sulfur dioxide) to a level less than or equivalent to that which would obtain through the use of fuels otherwise mandated.

b. Upon application, the Commissioner may permit the sale, offer for sale, purchase and use of fuel having a sulfur content in excess of that specified in Section 230.2, provided such fuel is used to demonstrate the performance of experimental equipment and/or processes for removal of sulfur compounds from stack emissions.

c. Upon application, the Commissioner may exempt a person from the provisions of Section 230.2 in a stationary combustion installation, process or incinerator where a substantial portion of the sulfur content of the fuel is retained in the ash and not emitted to the outdoor atmosphere, provided that the emission rate of sulfur compounds (expressed as sulfur dioxide) will not exceed an emission level which would obtain through the use of fuels otherwise mandated.

d. Upon application, the Commissioner may exempt a person from the provisions of Section 230.2, where the applicant can show to the satisfaction of the Commissioner that there is an insufficient supply of fuel suitable for a stationary combustion installation, process or incinerator in operation prior to January 1, 1973, and that the emissions from such stationary combustion installation, process or incinerator will not tend to cause an ambient air quality standard to be exceeded.

Section 230.4 Compliance

a. The Commissioner may require submission of fuel analyses, information on the monthly quantity of fuel received or burned and/or results of stack sampling and other procedures to ensure compliance with the provisions of this Part, and no person shall fail to submit such when requested to do so by the Commissioner.

b. Persons selling fuels shall maintain records of fuel buyers, quantities sold and fuel analyses for sales of all coal and fuel oil and shall make these records available for inspection by the Commissioner or his representative during normal business hours.

c. Sampling, compositing and analysis of fuel samples shall be carried out in accordance with the most recent ASTM standard methods or equivalent methods acceptable to the Commissioner.

Section 230.5 Ambient Air Quality Standards

Notwithstanding the provisions of this Part, no person shall emit air contaminants in quantities which alone or in combination with emissions from other sources would contravene any established ambient air quality standard or cause air pollution.

PART 231 MAJOR FACILITIES

Section 231.1 Applicability

Major facilties subject to this Part are facilities comprised of new emission sources or modifications for which Permits to Construct are issued subsequent to August 7, 1977 pursuant to Part 201 of this subchapter, and for which the cumulative permissible emissions for particulates sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds (except methane, ethane, 1,1,1 trichloroethane, trichlorotrifluoroethane, or methylene chloride), considered independently, exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is most restrictive.

of this Subchapter and

Section 231.2 Prohibition

No person shall initiate construction of new emission sources or modifications at a major facility, which will result in an increase in emissions, until the applicable provisions of this Part have been met and a Permit or Permits to Construct have been issued in accordance with Part 201 of this subchapter.

Section 231.3 Best available control technology (BACT) and lowest achievable emission rate (LAER).

(a) A source owner subject to this Part shall apply best available control technology on a contaminant specific basis to any new emission source or modification at a major facility if the permissible emission rate for particulates, sulfur dioxide, carbon monoxide, nitrogen oxides, or volatile organic compounds from such new source or modification is equal to or exceeds 50 tons per year, 1000 pounds per day, or 100 pounds per hour whichever is more restrictive and:

(1) the impact from such sources or modifications on any nonattainment area (see Part 200 of this Title for definition of nonattainment area and for definitions of other terms used in this Part) for particulates, sulfur dioxide, carbon monoxide, or nitrogen oxides does not cause an increase in ambient concentrations in the non-attainment area exceeding the amounts shown in Part 231.10(b) of this Part; or

section 231.10(b) of this Part; or

(2) the source emits volatile organic compounds in excess of 50 tons per year, 1000 pounds per day, or 100 pounds per hour and is in an attainment area for ozone, but not significantly impacting on an ozone nonattainment area as determined by procedures established by the Commissioner.

(b) A source owner subject to this Part shall apply lowest achievable emission rate on a contaminant specific basis to any new emission source or modification to be located at a major facility if the permissible emission rate of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides, or volatile organic compounds from such new source or modification is equal to or more than 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is more restrictive and:

(1) the source emits particulates, sulfur dioxide, carbon monoxide, or nitrogen oxides in excess of the above amounts and is in a nonattainment area for the contaminant emitted, or causes an increase in ambient concentration in any nonattainment area which exceeds any of the amounts for these contaminants shown in Section 231.10(b) of this Part; or

(2) the source emits volatile organic compounds in excess of the above rates, and is in a nonattainment area for ozone or significantly impacts on an ozone nonattainment area as determined by procedures established by the Commissioner.

(c) The 100 pounds per hour or 1000 pounds per day permissible emission rates shall apply to a contaminant for which a prevention of significant deterioriation increment (Section 231.10(a)) or national ambient air quality standard, for a period less than 24 hours or for a period of 24 hours, as appropriate, has been established.

(d) The source owner or shall submit information at the time he applies for a Permit to Construct to establish that best available control technology or lowest achievable emission rate, whichever is applicable, will be applied.

Section 231.4 Increment allocation

The applicable ambient air quality increments set forth in Section 231.10(a) of this Part shall be allocated in accordance with procedures established by the Commissioner, which provides opportunity for local government participation. Impact of sources on applicable increments shall be evaluated in accordance with section 231.5 of this Part.

Section 231.5 Air quality impact evaluation

(a) A source owner subject to this Part shall submit to the Commissioner an air quality impact evaluation report for any major facility at such time as an application is made for a Permit to Construct for a new emission source or modification at the facility which would cause the cumulative permissible emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from the facility to exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour, whichever is most restrictive. An air quality impact evaluation report shall also be required at such time after the previous air quality impact evaluation as an application is made for a Permit to Construct for a new emission source or modification at the facility which would cause the increased cumulative permissible emissions of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides or volatile organic compounds from the facility, since the last report, to equal or exceed any of the above rates. The above hourly and daily emission rates shall apply to a contaminant for which a prevention of significant deterioration increment (Section 231.10(a) of this Part) or ambient air quality standard for a period less than 24 hours or for a period of 24 hours, as appropriate, has been established.

(b) The report shall demonstrate that emissions from the major facility will not cause violations of any ambient air quality standard for particulates, sulfur dioxide, carbon monoxide, or nitrogen oxides and/or will not significantly contribute to a violation of any applicable ambient air quality standard in a nonattanment area. A facility will be considered to significantly contribute to a violation of any ambient air quality standard for the above air contaminants if the increase in the cumulative emissions from the facility causes any increase in ambient concentrations in the nonattainment area for any of the above air contaminants in excess of any of the amounts shown in Section 231.10(b) of this Part. If a facility is located in a nonattainment area and will significantly contribute to such a violation, the report must show that emission reductions from existing sources will be achieved in accordance with section 231.6(a). Facilities located outside a nonattainment area which would cause any increase in ambient concentrations in the nonattainment area in excess of the amounts shown in Section 231.10(b) of this Part need only achieve emission reductions such that increases in the non-attainment area will not exceed the amounts shown in Section 231.10(b) of this Part.

(c) The report shall demonstrate that emissions will not cause or contribute to ambient concentrations exceding the sum of the prevention of significant deterioration (PSD) increment for the specified air contaminants (Section 231.10(a) of this Part) and the ambient concentration reflecting the actual ambient air quality of such air contaminant existing on Aug. 7, 1977 minus any contributions to the ambient concentration from any emission sources at a major facility subject to Part 52 of Title 40 of the Code of Federal Regulations for which Permits to Construct were issued between January 1, 1975 and August 7, 1977. Additionally, the report must show that increases in ambient concentrations will not exceed the amount of the increment available for allocation as set forth in section 231.4 of this Part.

(d) The source owner shall conduct the air quality impact evaluation and prepare his report in accordance with procedures acceptable to the Commissioner. Facilities subject to this section locating within 100 kilometers (62 miles) of a federally designated Class I area shall include in their impact analysis the effects on soils, visibility and vegetation. The evaluation shall exclude the effect of:

(1) that portion of the height of any stack which exceeds good engineering practice, or

(2) any other dispersion technique for any emission source for which a Permit to Construct was issued after December 31, 1970.

(e) The following emissions shall not be considered when calculating cumulative emissions to determine the necessity for an air quality impact evaluation:

(1) temporary emissions (less than 3 years), e.g., pilot plant, mobile facility, construction,

(2) fugitive dust.

Section 231.6 Emission reductions from existing emission sources.

(a) The Commissioner shall not issue a Permit to Construct for any new emissicn source or modification at a major facility located in a nonattainment area, or attainment area significantly impacting on a nonattainment area, if the source owner cannot demonstrate, as required under section 231.5, that emissions from such facility will not significantly conribute to a violation of any applicable ambient air quality standard for particulates, sulfur dioxide, carbon monoxide, or nitrogen oxides, unless:

(1) the source owner will reduce emissions of the same air contaminants on more than a one-for-one basis from existing emission sources at his facility which are in compliance or secure such emission reductions at any other facility to obtain a net air quality benefit acceptable to the Commissioner and all major facilities of the source owner (or by any entity controlling, controlled by, or under common control with such person) located in the State are in compliance with applicable rulles or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees, or

(2) the increases in cumulative permissible emissions are consistent with any increases in emissions reserved for growth in accordance with the State Implementation Plan, and all major facilities of the source owner (or by any entity controlling, controlled by, or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or courts. decrees.

(b) The Commissioner shall not issue a Permit to Construct for any new emission source or modification emitting volatile organic copounds (VOC) at a major facility located in a nonattainment area for ozone where cumulative VOC emission increases allowed by Permts to Construct issued since Aubust 7, 197, or since the last emission reduction under this section, exceed 50 tons per year, 1000 pounds per day or 100 pounds per hour unless:

(1) The source owner will reduce emissions of volatile

organic compounds on more than a one-for-one basis from existing emission sources at his facility which are in compliance or secure such emission reductions at any other facility located in the same non-attainment area for ozone and all major facilities of the source owner (or by any entity controlling, controlled by, or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative orders or court decrees, or

(2) the increases i cumulative permissible emissions are consistent with any increases in emissions reserved for growth in accordance with the State Implementation Plan, and all major facilities of the source owner (or by any entity controlling, controlled by, or under common control with such person) located in the State are in compliance with applicable rules or are meeting all steps of any compliance schedules contained in any administrative or court decrees.

(c) Emission reductions required by this section shall exceed any increase in cumulative permissible emission rate. Emission reductions occurring only since August 7, 1977 may be used to offset increases.

Section 231.7 Ambient air quality monitoring

(a) A source owner required to submit an air quality impact evaluation report in accordance with Section 231.5 shall include in such report an analysis of ambient air monitoring data for applicable air contaminants except as exempted under section 231.7(c). Ambient monitoring data shall be based on sampling conducted for one year immediately preceding submission of any application for a Permit to Construct involving a major facility. Ambient monitoring data collected over a shorter time period or for a time period other than that immediately preceding submission of any application for a Permit to Construct may be acceptable if such data is adequate for determining whether the major facility would cause or contribute to a violation of any applicable ambient air quality standard. The Commissioner shall allow the use of existing monitoring data whenever appropriate.

(b) If the Commissioner issues a Permit to Construct or Certificate to Operate for emission sources of a major facility, the source owner may be required to conduct ambient air quality monitoring and to submit periodic reports to the Commissioner as a condition of the permit and/or certificate.

(c) An owner may be exempted from monitoring requirements if he demonstrates to the Commissioner's satisfaction, using acceptable modelling techniques, that no ambient air quality standard will be exceeded.

(d) Monitoring requirements will be determined by the Commissioner on a case by case basis.

Section 231.8 Public participation

Local government and public participation shall be in accordance with procedures established in Part 621 of this Title (Uniform Procedures). Additionally periodic increment use hearings will be conducted at locations within the State where there has been sufficient growth to warrant a public review of increment allocation.

Section 231.9 Exemptions

(a) The owner of any temporary major facility for whose emissions sources Permits to Construct were previously issued may be exempted from the requirements of this Part provided:

(1) the facility is located in an area other than a non-attainment area for any air contaminant emitted,

(2) emissions from the facility would not impact in amounts greater than those shown in Section 231.10(b) of this Part on a nonattainment area, or any area in which a prevention of significant deterioration increment is exceeded, and

(3) the facility will be operated at the new location for not more than three years during which time it will be in compliance with all applicable requirements of this Chapter.

(b) The Commissioner may exempt a major facility from the requirements of this Part if the cumulative annual potential emissions from such facility of particulates, sulfur dioxide, carbon monoxide, nitrogen oxides, or volatile organic compounds, considered independently, are less than 100 tons provided the source owner demonstrates to the satisfaction of the Commissioner that the emissions from the facility do not significantly affect air quality.

(c) The following major facilities are exempt from Section 231.6 of this Part.

(1) resource recovery facilities burning refuse or refuse derived fuel

(2) any facility at which an existing emission source is required to convert to coal by reason of a federal order.

(d) Major facilities in attainment areas not significantly impacting on a nonattainment area for the contaminant emitted are exempt from this Part until such time as the Administrator of the Environmental Protection Agency has delegated responsibility for source review related to prevention significant deterioration of air quality to the New York State Department of Environmental Conservation.

Section 231.10 Tables

(a)

TABLE 1

Prevention of Significant Deterioration (PSD) Increments

Air Contaminant/ Ambient Air Quality Standard	Maximum Allowable Increment Micrograms Per Cubic Meter		
	Class I	Class II	Class III
Suspended Particulates:			
Annual Standard (geometric mean)	5	19	37
24-hour Standard (maximum)	10	37	75
Sulfur Dioxide:			
Annual Standard (arithmetic mean)	2	20	40
24-hour Standard (maximum)	5	91	182
3-hour Standard (maximum)	25	512	700

As of the effective date of this Part, all areas of the State are Class II. Increment for Class I and Class III areas are shown in event areas are reclassified in the future to either Class I or Class III.

(b)

TABLE 2

Significant Impacts for Non-Attainment Areas (NAA)

Air Contaminant	Averaging Time				
	Annual	24 Hour	8-Hour	3-Hour	1-Hour
Sulfur dioxide	1.0/m**3	5.0/m**3		25/m**3	
Suspended particulates	1.0/m**3	5.0/m**3			
Nitrogen dioxide	1.0/m**3				
Carbon monoxide			0.5mg/m**3		2 mg/m**3